

AN ASSESSMENT OF THE ANTI-CORRUPTION STRATEGIES IN NAMIBIA'S PUBLIC SECTOR

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ABSTRACT

Corruption has been identified as an area of grave concern in most societies, including Namibia. For Namibia, the fight against corruption is not simple, but it is an economic and social issue. If allowed to persist, corruption has the potential to reverse the remarkable progress and successes recorded since independence in 1990. Also, it can contribute towards budget deficit, thereby fuelling inflation.

Because of its negative effects, the GRN has introduced several anti-corruption mechanisms and strategies to nip it from the bud. These are the Offices of the Auditor General and the Ombudsman, the Anti-Corruption Commission and the Namibia Police, to mention but a few. In the Namibian context, anti-corruption mechanisms and strategies refer to public policies, laws and institutions that came into being to combat corruption.

Notwithstanding these institutions, corruption thrives in the Namibian society. Incidences of corruption had been reported in the GRN departments, State-owned enterprises and the private sector. Among these are flouting of tender regulations, favouritism, accepting of bribes, nepotism and extortion. However, it is critical to mention that corruption is likely to persist because officials who are not necessarily committed to fight corruption are heading some of public and private entities. The paper concurs with those stating that corruption exists in Namibia although it is not yet embedded in the system. This remains a serious concern for all responsible citizens.

For this reason, the paper examines the efficacy of the GRN's anti-corruption strategies and mechanisms in order to suggest possible solutions/steps in strengthening the existing ones with a view to halt occurrences of corrupt malpractices.

To win this battle, it is critical to implement a holistic approach that involves all stakeholders, namely the Government, non-governmental organisations, civil society and the public sector. It is a well-known fact that no single Government has ever eliminated this menace alone. To achieve this, co-operation and co-ordination among stakeholders becomes necessary.

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PREFACE

The original impetus for this study arose from my special interest in the Namibian Government's efforts to tackle corruption and other related problems. The research is intended as a contribution to the still largely undocumented history of Namibia. It focuses on several strategies that the GRN has put in place to thwart and frustrate corrupt practices since 1990.

The paper pays special attention to three entities, namely the Offices of the Auditor General and the Ombudsman and the anti-Corruption Commission. The three are some of the institutions introduced by the GRN to diminish corrupt practices. It is worth mentioning that despite these entities it is disheartening to read about alleged corrupt practices almost on daily basis in local media. This is worrying because the effects of this anti-social behaviour trickle down to weak sectors of economy and eventually affecting the majority. This raises a need to review the efficacy of the current Namibian anti-corruption entities in order to suggest possible ways of strengthening them. Thus, the paper investigates their mandates, finance, support and limitations as well as successes.

As one might think, in any literature of this kind, there will be omissions, shortcomings and even errors. Obviously, such shortcomings and errors are solely mine. I hope that this paper will serve as useful tool to helping eliminate corruption.

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DEDICATION

To our last-born daughter Paulina Elago and her siblings.

DECLARATION

I hereby declare that this work, entitled “*An Assessment of the Anti-Corruption Strategies in Namibia’s Public Sector*” is my own independent work except where stated otherwise in the acknowledgement or the text, and that it has not been previously submitted in whole or in part for an award at any institution.

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Signed: _____
Abisai Shaningwa

Date:

April	2007

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LIST OF ACRONYMS

ACC	Anti-Corruption Commission
AFROSAI-E	African Organisation of English-Speaking Audit Institution
AG	Auditor General
AIDS	Acquired Immune Deficiency Syndrome
AMCOM	Amalgamated Commercial Holdings
BEE	Black Economic Empowerment
CEO	Chief Executive Officer
DBC	Development Brigade Corporation
DCEC	Directorate on Corruption and Economic Crime
DRC	Democratic Republic of Congo
ECN	Electoral Commission of Namibia
GIPF	Government Institutions Pensions Fund
GRN	Government of the Republic of Namibia
IMF	International Monetary Fund
ISS	Institute of Social Studies
JSC	Judicial Service Commission
LAC	Legal Assistance Centre
MOSOP	Movement for the Survival of the Ogoni People
NA	National Assembly
NBC	Namibia Broadcasting Corporation
NC	National Council
NDF	Namibia Defence Force
NAMPOL	Namibia Police
NATIS	Namibia Traffic Information System
NGOs	Non-Governmental Organisations
NHE	National Housing Enterprises
NID	Namibia Institute for Democracy
NIPP	National Integrity Promotion Programme
PG	Prosecutor General

PS	Permanent Secretary
PSC	Public Service Commission
RA	Roads Authority
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SADCOPA	Southern African Development Community Organisation of Public Accounts
SAPs	Structural Adjustment Programmes
SOEs	State-Owned Enterprises
SWAPO	South West Africa People's Organisation
TII	Transparency International Index
UNAM	University of Namibia
USA	United States of America
WAD	Women's Action for Development

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

Corruption has been identified as an area of grave concern in most societies. According to Klitgaard (1988:1), the former Nigerian President Shehu Shagari, for instance, stated “*What worries me more than anything among our problems is that of moral decadence in our country. There is the problem of bribery, corruption and lack of dedication to duty and dishonesty*”. President Shagari was right to articulate such sentiments because his civil government was toppled after twelve months by General Muhammadu Buhari on pretext that his government was corrupt.

In the Far East, former Indonesian President General Suharto was accused of collaborating with his wife Dewi to stash away approximately \$90 billion from State coffers. Likewise, the spouse of the President of the Philippines Ferdinand Marcos had at least \$30 billion in secret bank accounts. It was alleged that she spent huge amounts of money on buying an extensive collection of shoes (*Drum*, 22 July 2004:96).

Even democratic and developed countries such as the United States of America (USA) are not spared from the scourge of corruption. *The New York Times* of 31 October 2003, reported that President George W Bush received “\$500 000 from companies that got contracts”.

It further alleged that the overwhelming majority of the US Government contracts worth billions of dollars of construction work in Iraq and Afghanistan were awarded to companies run by executives who were principal political contributors to the Republican and Democratic Party, respectively. It was also reported that the bidding process of such tenders has been shrouded in secrecy and surrounded by controversies.

Namibia is not immune to this problem. Incidences of corruption and mal-practices have been reported in the Government departments, State-owned enterprises and the private sector. Cases of misuse of public resources, theft, greed and nepotism as well as unprocedural awarding of tenders and contracts have been reported in local newspapers. For example, a former employee in the Ministry of Defence was sentenced to 20 years in jail after he admitted to have submitted false claims worthy N\$5.4 million for the payment of death benefits to soldiers. The Police are investigating fraud charges against two junior officials for having allegedly misappropriated N\$70 000 in the Office of the President at Keetmanshoop. The ACC confirmed investigations on alleged irregularities regarding the granting of catering contract for the Zone Six Under-20 Youth Games hosted in Windhoek this year. Two senior Police Officers were suspended in June 2006 after hundreds of dollars under their supervision disappeared. Two Police Officers appeared in court on charge of corruption after they misappropriated N\$37 800 from stolen money that were supposed to seize as evidence (*Insight*, November 2006:40).

Over the years, the Government of the Republic of Namibia (GRN) has introduced laws, policies and even established institutions to fight the scourge of corruption. The President has also appointed Commissions of Inquiry into the affairs of public entities to investigate mal-administration and corrupt practices. These are Inquiry on the Police (1990), Misuse of Government properties (1992), Procedures and practices applied in the allocation and utilisation of Fishing Rights (1993), Cause of resistance by certain members of the Caprivian community regarding the appointment of some senior public servants in education (1993), Labour related matters affecting agricultural and domestic employees (1995), Aviation Regulatory Practices of the Directorate: Civil Aviation in the Ministry of Works, Transport and Communication (1997), Education, Culture and Training (1999), TransNamib (2001), the Social Security Commission (2002), the Roads Authority and the Roads Fund Administration (2003), the Development Brigade Corporation and AMCOM (2004) (Nangombe 2005). It is worth mentioning that tentacles of corruption have also tainted the GRN, because the same Government has employed certain people who are engaging in the abuse of its scarce resources for their own benefit, relatives and their cronies.

1.2 BACKGROUND

Upon the attainment of Namibia's national independence on 21st March 1990, the GRN embraced the values of maintaining and sustaining accountability, democracy and good governance. These values are kept alive through the adopted system of public sector accountability.

In this context, Namibia conducts regular elections as a means of ensuring governmental accountability to its citizenry. However, the idea of holding public officials accountable to their actions should not only confine to conducting of such ‘*customary*’ elections in the country. In addition, such accountability should also include the conduct of officials in all Government Offices, Ministries and Agencies as well as Parastatals. This implies that all public servants within these entities should be accountable for their actions in line of their official duties (Tonchi and Nsingo 2000:95).

“Public sector accountability and transparency are critical issues in governmental affairs, particularly in developing countries where human rights violations, abuse of power, nepotism, fraud and misappropriation of state funds have become endemic. A compelling reason for promoting accountability, especially in combating corruption, is evident in increasing demands by citizens for politicians and administrators to maintain openness and transparency in executing their official duties and responsibilities. This is partly due to linking of transparency and public accountability to good governance” (Asibuo 2001:1). Indeed, good governance remains one of the conditions set by the world financial institutions such as the International Monetary Fund (IMF) and the World Bank as well as donor communities in granting financial assistances to impoverished nations.

Reverend Leon Sullivan categorically underlined the gravity of corruption during the African-American Summit in Accra, Ghana in 1999 when he stated, *“I have been travelling all over the globe soliciting assistance for Africa, but corruption on the continent is militating against this effort”* (Asibuo 2001:2).

The Namibian Constitution (1990) makes the provision for the establishment of the anti-corruption institutions and design of strategies to ensure accountability in the State institutions and State-owned enterprises (SOEs) with view to curb corruption. In the Namibian context, anti-corruption strategies encompass public policies, laws and institutions that seek to combat corrupt practices. This is in line with Klitgaard *et al* (1996:10)’s definition of anti-corruption strategies as *“A set of measures that focus on corrupt systems, not (just) corrupt individuals. In other words, instead of thinking corruption in terms of an immoral individual breaking the law and violating a trust (which are true), one thinks about systems that are more or less susceptible to various illicit activities”*.

To enhance transparency and accountability, the Namibian Constitution clearly provides for the separation of powers between three branches of the Government, namely the Executive, the Legislature and the Judiciary. The separation of powers is critical because it introduces *checks-and-balances* in the process of governance. For instance, the budgetary allocation of the Executive must be scrutinised and approved by the Legislature.

The Judiciary remains independent and can prosecute, even members of the Executive. Therefore, there is a theoretical argument that advocates that good governance and accountability can be upheld in public institutions (Nangombe 2005).

The promulgation of the Anti-Corruption Act in 2003 and the Office of the Ombudsman in 1990 can be viewed as practical measures aimed at fighting corruption. Others include the creation of institutions such as the Presidential Commissions of Inquiry (1990-1993, 1995-1997, 1999, 2001-2003), the Office of the Auditor General in 1990 and the Anti-Corruption Commission in 2005. In other systems, the Presidential Commission of Inquiry is a standing organ of the State. In Namibia, as need arises and when the President feels it necessary to do so a Presidential Commission of Inquiry is appointed to investigate allegations of corruption (Shanghala 2005).

The Ombudsman is a watchdog body that was created to protect human rights, promote fair and effective administration in the public service and to combat corruption. The Auditor General (AG) is responsible for auditing public accounts in order to ascertain optimal and prudent utilisation of public finances. The Anti-Corruption Commission was created to receive and investigate allegations of corrupt practices. Over various occasions as shown earlier, the President has launched the Presidential Commissions of Inquiry to investigate alleged corrupt practices in the State institutions as well as at State-owned enterprises.

Corruption has a cultural dimension. In African societies, including Namibia, cultural values of sharing and looking after one's next of kin are often carried over into the public realm. This encourages and eventually entrench corrupt practices in public services. In some African cultures, it is expected that if one is a manager or head of department, then he/she should ensure that people from his/her region or community are employed. In some instances, such practices, where they are allowed to persist have developed into nepotism. Therefore, in addition to the legal framework that needs to be established to fight corruption, the necessary mechanisms and strategies should also be initiated to address the cultural dimensions that reinforce corruption in societies (Kaholongo 2005). In this context, launching of intensive awareness campaigns is critical to alert citizens about the dangers of corruption.

1.3 RESEARCH PROBLEM

This paper seeks to examine the institutions and mechanisms established by the GRN to combat corruption. It has become increasingly clear that notwithstanding the GRN's efforts to enhance openness and accountability, corruption continues to permeate the society. In Namibia, corruption continues to persist for several reasons. The limited level of public accountability, indiscipline, greed and dishonesty are some factors which lead to officials to engage in corruption. This has resulted in public officials taking bribes, involving themselves in extortion schemes, practicing favouritism in recruitment as well as engaging in unethical awarding of tenders and contracts. This paper focuses on institutions established to fight corruption, particular the mechanisms they use and their limitations as well as successes.

The reasons for focusing on these institutions are two fold. Firstly, most alleged irregularities and corruption uncovered by these entities received extensive coverage by local media. This indicates that corruption is a reality in Namibia and that there is a need for an intensive review of the adequacy of the current anti-corruption mechanisms and strategies before the problem becomes endemic and systemic.

Secondly, the Presidential Commissions of Inquiry into the Activities, Affairs and Management of the Social Security Commission in 2002 and the Roads Authority and Road Fund Administration in 2003 respectively, were publicly conducted and some members of the general public and public officials attended such sessions. The hearings served as an *'eye opener'* in the sense that they made the public aware of the fact that it is crucial to report cases of corruption to relevant authorities so that justice takes its course. It is therefore important to find out (a) what the mechanisms adopted are, (b) their effectiveness and (c) if they are not effective, why? This may help to consider ways of making them better. Thus, the study aims to find out why corruption permeates the Namibian society despite the existence of policies and institutions which are aimed at curbing the phenomenon.

1.4 RESEARCH QUESTION

The research question of the study is to assess the adequacy of the anti-corruption strategies of the GRN in light of the ongoing corrupt practices. The sub-questions are as follows:

- What are the main strategies, circumstances and motivation for dealing with corruption?

- What is the economic, political and image impact of corruption in Namibia?
- What institutions have been set up to handle corruption?
- How are they financially or otherwise supported?
- To what extent does the co-ordination between the Government, civil society and public sector exist?

1.5 PURPOSE OF THE STUDY

The study assesses the adequacy of the GRN's anti-corruption mechanisms and strategies. In other words, the study assesses the adequacy of the existing GRN's anti-corruption mechanisms and strategies with the aim of suggesting new ones or possible ways of strengthening the existing ones in the face of the apparent raise in incidences of corruption. This is an institutional study which investigates how such strategies are operating, the resources at their disposal, the degree of their autonomy and the collaboration among themselves as well as their mandates. It further seeks to proffer possible solutions/steps in strengthening these strategies with the aim to avert the re-occurrences of similar incidences.

1.6 JUSTIFICATION (MOTIVATION)

Corruption does not only undermine the efforts of the GRN and other stakeholders in enhancing the development of the country, but it also threatens the consolidation of democracy, peace and tranquillity that the Namibians are enjoying today. The negative effects and impact of corruption are familiar to many. Some observers regard corruption and its corrosive effect as the '*AIDS of Democracy*'.

The former World Bank President Mr James Wolfensohn for example once declared: *“Let’s not mince words; we need to deal with the cancer of corruption. In country after country, it is the people who are demanding action on this issue”* (Hope 2000:17).

Indeed, corrupt practices lead to the wastage of scarce public resources because it takes away the much-needed resources from development projects and benefits few individuals at the expense of the majority. It perpetuates human sufferings through escalating poverty levels. Corruption also increases administrative costs because the general public becomes obliged to make irregular payments for access to public goods and services which they are entitled to receive free of charge or at discounted rates. The end result is the diminished ability of the Government to deliver effective and efficient services to the public. As was pointed out by the President of Namibia, eventually, this leads to erosion of the public confidence and trust as well as public condescension for the State and private institutions (Pohamba 2005).

Globally, corruption is recognised as a destructive phenomenon that contributes towards under-development and poverty which causes misery and untold sufferings of the majority of people. It also damages a country’s economic performance by reducing private investments, distorting public investments, discouraging foreign direct investments and reducing the efficiency of the public sector (Sherbourne 2000:1).

In this context, Namibia as a country, has also expressed its intention and resolve to fight corruption, through the adoption and implementation of the necessary anti-corruption mechanisms and strategies. As the custodian of the public resources, the GRN has the duty to ensure effective control over its resources and to ascertain that they reach the citizens who need them most in the society. Therefore, it is a matter of the general public and academic interest that the efforts of the Government to fight corruption are investigated to determine their efficacy.

1.7 METHODOLOGY

Three methods were used in the study, namely interviews, literature survey and observer participation. The researched data were collected through interviews, newspaper articles and studying relevant available literature. Interviews were conducted with the following officials:

- The Auditor General (1)
- The Director of the Anti-Corruption Commission (1)
- The Ombudsman (1)

Interviews were also conducted with selected current management and employees of the said Institutions. A total number of 3 Directors and 2 Deputy Directors from Finance and Investigation Departments and 2 employees from various Sections and Sub-Sections were interviewed. The documentary research focused on the published and unpublished literature, reports, minutes of meetings and articles of legal publications.

The works of other researchers in Namibia and elsewhere were also consulted in the process. It is, however, significant to mention that some interviewees found it difficult to talk about incidences of corrupt practices. So, the study has maintained anonymity of the interviewees and also relied on the information from officials who either resigned or left the service, media practitioners and opposition parties.

1.8 PROCESSING OF DATA

The data was processed by using primarily qualitative techniques and displays some quantitative data. The qualitative techniques are used for the data obtained through interviews and documentary research. The quantitative techniques, particularly the tables are utilised to display the data obtained from the questionnaires.

1.9 SCOPE AND LIMITATIONS

As already mentioned, the term corruption is very complex and difficult to grapple with because it varies from context to context. It is interesting to mention that people's perception of corruption may differ, say from one region to another or even from one ethnic group. Due to time constraints, the study is therefore limited to three State entities, namely the Offices of the Auditor General, Ombudsman and the Anti-Corruption Commission. It covers the period 2003 to 2006. The shortage of funds could not permit field visits. Finally, there are more oversight institutions which it would have helped to study such as Parliament. However, time and space did not allow.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

Klitgaard et al (1998:8) eloquently stated, “*Like illness, corruption will always be with us. But as this sad fact does not keep us from attempting to reduce disease, neither should it paralyse efforts to reduce corruption. Corruption involves questions of degree. Countries and agencies have more and less corruption*”.

2.2 DEFINITIONS

The term corruption originated from a Latin verb to break, *rumpere*, which means that something is badly broken. That something might be a moral or ethical code or more usually, an administrative rule or law. This implies that an individual who breaks it receives personal advantages. In this context, corruption is perceived as the utilisation of official positions or titles for personal or private gain. Such benefits are derived at the expense of the majority citizens in respect of accessing public goods and services. This practice is normally contrary to existing rules and ethical considerations and through direct or indirect participation of one or more public officials, be they politicians or bureaucrats (Hope and Chikulo 2000:18).

The Namibian Anti-Corruption Act, 2003 defines corruption as the use or abuse of public authority for personal gain through solicitation and acceptance of money, gifts, favours and promise, attempts and conspiracies, fraudulent concealment of offences and so on in exchange for acts or omissions involving public responsibility.

This concurs with the SADC Protocol which defines corruption as an immoral act, including bribery or any other behaviour in relation to persons entrusted with responsibilities that violate such duties to receive personal advantages (Noa 2006).

Commenting on the definition of corruption, Namibia's Director of Anti-Corruption Commission, stated *'Even the United Nations Convention Against Corruption failed to provide a common definition of this menace. This is attributable to invariably encounters of political legal and criminology problems. Moreover, several defined forms of corruption as well as mal-practices keep evolving while new forms continue rearing their ugly heads'*.

The National Integrity Promotion Programme (NIPP 2004:1) stated that, universally, there is no single accepted definition of the term corruption. Thus, it defines corruption as an act done with an intention to receive and give advantages inconsistent with official duties and rights of other people. It also defines corruption as an act of using the public office or position of trust for personal gain.

Weissnar (2004:4) argues that corruption commences when an individual abuses the public power for personal profit. This implies that corruption is a crime and it literally aims at "*destroying*" public resources. The offences of this anti-social behaviour include several illicit deeds that intend to provide illegal benefits to dishonest and unscrupulous individuals.

This implies that any person who directly or indirectly accepts or offers any unlawful gratification to benefit in person or someone else is indulging in corrupt practices. Usually, corruption includes acts of omission or commission.

Mafunisa (2000:11) defined corruption as immoral, deprived or dishonest practices of a person. This suggests that this menace is a cultural and moral problem. From an organisational point of view, corruption is an essential specific cultural attitude regarding loyalty, morality and usurpation of public goods and services. Thus, corruption in general could mean pursuing private gain or selfish interest at the expenses of the public interest in accessing public goods and services by whoever is wielding with power within a specific working environment. As earlier indicated, universally there is no single accepted definition of the term corruption. The main concern of the study is, however, not to seek for the right definition of corruption. It rather seeks to understand how and why this social evil thrives in societies regardless of several anti-corruption mechanisms and strategies that have been put in place to curb it.

2.3 FORMS OF CORRUPTION

Corruption is a universal problem and it is not only limited to few societies. Corruption includes many things, some of which are bribery, fraud, intimidation, extortion, nepotism, favouritism, conflict of interests, insider trading/abuse of privileged information, gratification, gifts, social/sexual corruption and electoral corruption.

Nepotism is one form of corruption. The term nepotism is derived from an Italian word, *nepoti*, which means nephew or family in a broader sense. In administrative terms, nepotism is clearly understood as a practice of appointing family members and relatives to positions. Furthermore, whereas nepotism is narrowed down to appointment of family members and relatives, patronage is the basis of the recruitment. Instead of appointing knowledgeable and capable candidates with suitable skills and qualifications, incapable clients are offered employment, regardless of their incompetence and poor academic background. The side effects of this practice are red tape and personnel turnover which ultimately leads to the wastage of public funds and duplication of efforts (Mafunisa 2000:15).

In Namibia, for instance, a junior politician called upon the Government to appoint '*committed*' South West Africa People's Organisation (SWAPO) cadres in strategic positions in both public institutions and parastatals as a measure to halt the wastage of State funds. He made the call at the time when several cases of abusing of the State resources were rampant and reported in local newspapers. To date, the Government has not yet officially pronounced its position in this regard. If such a call is implemented, corruption is likely to occur because certain people might be appointed to powerful positions based on the principle of loyalty to a political party rather than on merit (Member of Opposition 2005).

Another form of corruption is bribery. Bribery refers to an act of persuading a person through using a gift, money or other incentives to violate rules. This practice is very common when officials are being promoted or purchasing equipment for offices. In some cases, some public officers expect to be paid by members of the public for performing their official duties such as the issuing of passports, identity documents and death certificates. In case where bribe is offered, an application of a particular client receives immediate attention, while others may be deliberately delayed or even not processed at all (NIPP 2004:3).

According to Mafunisa (2000:15), some civil servants in the former Zaire were involved in ill-practices which led to removals of documents from official files. Since it is a serious offence to remove documents, people with pending cases were willing to pay lots of money to remove them before they reached the offices of senior public officials. It is assumed that corruption of this nature is either supported by officials or imposed on systems by citizens seeking administrative shortcuts or to avoid justice. Generally, it is believed that bribery is rampant in departments of justice and public transport where dockets are stolen to prevent criminals from facing prosecution, while certain traffic officers accept *on-the-spot* bribes from motorists who do not want to be taken through the process of justice.

The NIPP (2004:4) defines extortion as forcing persons to engage in illegal acts by threatening them with negative repercussions if they fail to comply. Extortion occurs when senior officers are hiding their secrets in the working environments.

For instance, a senior public servant charged with forging of educational qualifications who knows embarrassing secrets of a senior official involved in the investigation of his/her case, may threaten to reveal secrets of the investigating officer in order to have the case dropped.

According to Weissnar (2004:3) intimidation occurs when an individual threatens fellow human beings, the general public or a particular section of a society to change views and beliefs to achieve specific goals. Usually, intimidation intends to influence a person with some threat of violence, while extortion involves the receipt of benefit obtained from shady deals. The distinction between intimidation and extortion is, however, often subtle.

Finally, fraud is an act of enriching oneself illegally, in case of a civil servant, at the cost of taxpayers. For example, some public officers may engage in private ventures and utilise Government transport and equipment such as fax machines, inter-net and telephones. This behaviour could also be perceived and described as an act of dishonesty with the intention to deceive another party. However, corruption is more comprehensive because an act may not be corruptly done, though advantages derived from such surreptitious deals are not offered to another person (NIPP 2004:4). In short, corruption is a universal phenomenon that consists of various forms, including the embezzlement of public funds and properties. As mentioned earlier, there are many forms of corruption and not all of them can be covered in this paper.

In Africa, corruption is most rampant in areas such as customs, revenue collection, land allocation, licensing and sub-contracting, procurement, travel documents, loans, social security funds and bonds, to mention but a few. For instance, in Namibia, testing for driving licenses was previously conducted by the Police Traffic Department. However, the introduction of Namibia Traffic Information System (Natis), a Sub-division within the Roads Authority (RA) has removed this responsibility from the Department. The RA's mandate is to maintain national roads, plus registering and licensing of vehicles. The bureaucratic discretion and tiresome procedures seem to be the order of the day before obtaining documents. Recently, local media reported about six officials who were questioned over license scam (Natis Official 2006).

It was allegedly stated that the suspects have deliberately failed applicants with the aim to force them to opt for a 'short cut' (*The Namibian*, 19 July 2006:3). A senior Natis official at Okahandja was detained for having allegedly pocketed N\$2 300 through issuing a Code CE licenses without conducting testing. An aspiring truck driver who can hardly drive confessed that he received his licence on 13 December 2005. It is alleged that the bribes being extorted from prospective drivers range between N\$1 000 to N\$1 500, while Code CE licenses cost N\$2 500 or more (*New Era*: 14 September 2006:1-2).

2.4 CATEGORIES OF CORRUPTION

The NIPP (2004:7) divides corruption into three main categories or types, namely the petty corruption, grand corruption and political corruption.

The former is practiced on a smaller scale because it does not involve substantial amounts of money. Usually, officials are bribed in this manner to enable bribing members of general public to gain preferential treatment and access to public goods and services. Selling of a driving license or offering money for admission of a learner, regardless of his/her failure to obtain a minimum required pass mark or a grade, is a classical example of petty corruption.

On the other hand, grand corruption involves exorbitant sums of money and it is normally found at institutional levels. It occurs when Government officials or State-owned enterprises award contracts or tenders or in the way they appoint as well as recruiting employees. The latter is associated with the electoral processes to advance certain political parties or candidates during such campaigns. The distribution of money, food and drinks to influence voters, bribing journalists to intensively cover election candidates as well as making false promises to garner for majority votes, are examples of political corruption (NIPP 2004:5).

Grand corruption can really change a society or country, as was the case of Nigeria during the Abacha regime. According to Aderinwale (2003:217-8), the Nigerian military junta has transformed the country's political system in a very significant fashion. The Abacha regime transformed the Nigerian State into a fully criminalised and indeed rogue State. This has led to serious agitations and plans for secession by Mr Ken Saro-Wiwa and his eight colleagues under the banner of the Movement for the Survival of the Ogoni People (MOSOP). Eventually, Mr Saro-Wiwa and his colleagues were sent to gallows in the Port of Harcourt Prison.

To cling to power, General Sani Abacha used the State apparatus to create favourable conditions for his self-succession plans. Towards this, General Abacha accused his opponents of various crimes as excuse to detain or imprison them. Mr Shehu Ya Adua who aspired to become a Presidential candidate was imprisoned and eventually killed by his regime. The current Nigerian Head of State, President General Olusegun Obasanjo, was imprisoned by the notorious regime. In March 1995, approximately 30 Nigerians were accused of planning to overthrow General Abacha's regime. The accused were arrested and sentenced to long-term imprisonment. In December 1997, General Diya together with other senior officials were tried for treason and faced execution. They were miraculously saved by General Abacha's sudden death on 8 June 1998 (Aderinwale 2003:219).

Grand corruption succeeds most when law enforcement agents get involved, as was the case in Hong Kong. In the 1960s, Hong Kong experienced problems of drug trafficking, gambling and prostitution as well as traffic violations. In spite of its anti-corruption devices, Hong Kong suffered due to participation of the Police in such illegal ventures. About 10 tonnes of opium and 10 tonnes of morphine were transported from the Golden Triangle into Hong Kong and beyond. These illegal operations persisted for years before the discovery of promotion and sympathetic attitude of the Police towards this criminality. It even became evident that the Police formed their own syndicates which assisted in transporting drugs before they collected their shares (kickbacks) (Klitgaard et al, 1997:6). Once corruption penetrates the law enforcement agencies, it becomes difficult to stop grand corruption although, Hong Kong succeeded to reverse the trends.

2.5 CAUSES OF CORRUPTION

According to Hope and Chikulo (2000:19), corruption permeates most African societies for several reasons. Firstly, it is attributable to low level of public accountability in most African States. Public accountability refers to the process of holding the public officials responsible for their actions in line of their official duties. This issue is also central to good governance. Thus, the lack of proper systems for holding public officials accountable to their actions has bred irresponsibility among some public officials and further led to lack of trust in public systems and cynicism amongst citizens.

According to Kwame and Jacques (1999:42), corruption is caused by several factors such as chronic shortages, high inflation and low salaries in the public service, lack of supervision, uncontrolled and unaccountable centres of power, tedious and lengthy procedures, insecurity of tenure of office and meagre pensions. The degree of corruption differs from one State to another but its impact trickles down to weak sectors of economy, thereby affecting the majority.

According to Mbaku (1997:127), ineffective and incompetent civil servants have the potential to breed and promote corruption. An important precondition for steady economy development is an effective civil service. This implies that senior positions must be occupied by competent and qualified personnel. To the contrary, inefficient and unprofessional civil servants contribute to development fiasco.

Efforts to redress such shortcomings have proved futile due by hindrance of corrupt civil servants who perceive effective policy reforms as threat to their privileges. This has resulted in the promotion of large and unsound public projects that are often established to benefit a handful of elites and their acquaintances.

The Namibia Institute for Democracy (NID 2004:2) stated that the root causes of corruption are need, greed and lust for power. The perpetrators of this behaviour are selfish individuals who place their interests above everything. Such inconsiderate and reckless behaviour leads culprits to think that the advantages of corruption outweigh the disadvantages of honesty, especially when they are aware of better chances of succeeding at a personal level.

The centralisation of authorities also creates opportunities for corruption by making the access difficult for those without power, while at the same time, making the alignment easier for those in power. This means that centralisation of public goods and services create a '*gap*' between Governments and their subjects. This reduces and denies citizens opportunities to actively participate in management of State affairs. It is believed that, in instances where desperation and vulnerability set in, corruption is likely to take root (Mafunisa 2000:18).

Another factor contributing to corruption in Africa is that of the job insecurity of certain civil servants that can easily tempt them to engage into this anti-social behaviour.

For example, individuals appointed on short-term basis may be tempted to become corrupt in order to create comfortable retirement packages for themselves (Mbaku 1997:129).

Illiteracy and ignorance are also regarded as the main causes of the failure of civil society and the public in general to restrain the behaviour of public servants. Due to high rate of illiteracy in most African countries, brochures and booklets outlining Governments' policies and programmes are hardly available in remote areas. Even if they are available, the majority of general public cannot comprehend their contents to enable them support or question their respective governments. Even when public funds are misappropriated, it is difficult for some members of the public to detect it. In most rural areas, people believe that public funds belong to leaders. In this context, administration and politics combine with institutionalised ignorance and illiteracy entrench corruption (Mafunisa 2000:19).

Excessive administrative discretion increases the power of the public servants and contributes to corruption. This complicates the decision-making process and leads to irrational decisions that may be illegal, but cannot be challenged in courts of law. Excessive discretion increases administrative power and undermines rule of law. In this sense, corruption does not only thrive in societies, but it is likely to go unpunished by relevant authorities such as courts and administrative tribunals (Hope and Chikulo 2000:21-22).

Furthermore, as underlined by Kpundeh and Hors (1998:9) is the issue of the political will as a critical starting point for sustainable and effective anti-corruption strategies. Without it, they argue Governments' promises to reform the civil service, enhancing transparency and accountability as well as re-inventing mutual and constructive relationship between Governments, civil society and the private sector remain merely rhetorical and cosmetic.

Socio-cultural norms also contribute to corruption in Africa. The issue of social and cultural norms plays a significant role in most African societies. Such norms include personalism and affinity to smaller circles such as one's family, community, ethnic group and friends. According to Mbaku (1997:131), corruption may be an extension of tradition of gift giving. He argues that in Nigeria, lower paid civil servants may return part of their monthly salaries to senior officials as gifts. Although, this behaviour may not necessarily be interpreted as corruption, donors will expect preferential treatment from recipients. Although such cultural practices do not in themselves constitute corruption, they often breed corrupt practices.

Kwame and Jacques (1999:131) further point that traditional loyalty among elderly citizens can easily promote and enhance corruption. For example, in the Kingdom of Swaziland, people with status have tendency to engage in cunning behaviour through using the name of the King, through expressions such as '*We have been sent by the King*' or '*we are doing this in the King's name*'.

“No one is expected to defy or challenge His Majesty’s directive because of ‘engumlomo longacalimanga’, (The mouth that never tells lies)”. These strategies intimidate and suppress illiterate communities residing in remote areas.

2.6 CONSEQUENCES OF CORRUPTION

Corruption is harmful to Governments and the general public, especially the poorest. Corruption produces negative consequences of economic, political and administrative nature. First, let us focus on economic consequences. It increases costs of the African Governments when delivering public services and amenities to citizens. After kickbacks and illegal commissions had been paid to public officials, these amounts are simply added to the final costs of contracts, equipment and supplies. Such financial burden increases Governments’ expenditures and siphons off scarce funds and such costs are usually offset by increases in taxes or increased borrowing (Hope and Chikulo 2000:23).

Secondly, it has been found that corruption increases social cost of the State bureaucracy. This means that taxpayers will be forced to foot bills for inefficient, bloated and wasteful bureaucracy. Due to bloated costs, members of the public will be required to pay more for public goods and services. In many African countries, a patient in a public hospital will be forced to pay as much as four times the officially mandated price for a procedure or prescription. Also, patients in public medical facilities receive improper treatment, expired drugs and generally poor or no service at all if they cannot afford to pay bribes to guarantee access to best treatment (Mbaku 1997:134-135).

Thirdly, once corruption infects civil service, the majority of public servants will become demoralised and often seek “*incentives*” to render the so-called effective and efficient service. The profit from ill-gotten practices can encourage civil servants to wittingly distort policies with the aim to create opportunities to generate income for themselves. According to the IMF-mandated Structural Adjustment Programmes (SAPs), many bureaucrats in Africa abused this initiative for personal gain (Mbaku 1997:134).

Fourthly, corruption can suppress national human resources development. Since 1960s, for instance, many African countries implemented the so-called “*Africanisation Policy*” in certain industries through placing indigenous people in powerful positions. This became a futile exercise after such programmes were hijacked by ambitious local elites who collaborated with multi-national companies. This eventually led to occupation of executive positions by foreign elites in critical sectors such as manufacturing and industries. In return, local elites got bribes and kickbacks from such companies. Through this most programmes aimed at developing local capability were stuck. A study on Nigeria indicated inflation costs of public projects were a very common practice. It was found that costs of public projects in Nigeria were about 200 percent higher than in Kenya and 130 percent greater than in Algeria (Mbaku 1997:134).

In Namibia, in 2004, the Presidential Inquiry into the Development Brigade Corporation (DBC) and the Amalgamated Commercial Holdings (AMCOM) also learnt about the mismanagement and abuse of resources at these entities that had resulted in the State losing millions of dollars. For example, an official testified that certain senior public officials had requested the DBC to drill boreholes on their properties. However, they did not pay for services rendered. Another official alleged *“There was also nepotism and favouritism, and some people were spying on others in order to obtain preferential treatment from Senior Managers”* (*The Namibian*, 29 September 2004:2).

The second type of consequence of corruption in the developing countries, including Africa, relates to political development and stability. It is believed that when corruption becomes an integral part of the social and political system, its maintenance tends to involve the use of repressive tactics through manipulation of State machinery to perpetuate corrupt practices. Dictators who prefer to rule for the rest of their lives will suppress political oppositions and lash their leaders in public arenas. Eventually, this will lead to disturbance of political development, thereby undermine and weaken the civil societies (Hope and Chikulo 2000:26).

Corruption has led to conflicts on the African continent. Most countries engulfed by conflicts today have gone through a history of bad governance reflected by greed and breakdown of the social contract between the State and citizens. Somalia, Sierra Leone and Liberia are good examples (Mihyo’s Class Notes, 2004).

Furthermore, corruption affects the political stability on the African continent because it is regarded as a cause of military coups d'etat. For example, in May 1997, a band of guerrillas under the command of Laurent Kabila fought against the oppressive and kleptocratic regime of General Mobuto Sese Seko of Zaire – now the Democratic Republic of Congo (DRC). The widespread corruption, embezzlement of State funds and mismanagement were cited as reasons for overthrowing the notorious regime of General Mobuto Sese Seko. This implies that when political development and tranquillity are undermined, the process of national development is also in disarray (Hope and Chikulo 2000:26).

Sometimes lack of action against corrupt leaders encourages corruption. For example, in Zambia, high levels of corruption involving senior Government leaders were exposed in local media. In 1994, seven Ministers in President Chiluba's Cabinet were accused of abusing their official positions that enabled them to benefit from \$27 million Japanese non-project grant. Notwithstanding the public pressure on President Chiluba to act on evidence availed by the opposition parties, the alleged corrupt Ministers remained unpunished (Mafunisa 2000:18).

Also, the effect of corruption on the youth cannot be overlooked. Since the youth are future leaders, it is essential to ascertain that they grow up in an environment that offers socially approved role models at household, community and national levels. Any society denying this is destined to chaos and anarchy.

Hence, it is important to instil values of honesty and hard work in the youth, thereby ensuring them to become responsible citizens in future (Kwame and Jacques 1997:134).

The last consequence stemming from corruption in Africa is related to administrative development. According to Pohamba (2005) once corruption infects the blood stream of any public institution, it causes irretrievable damage in public morality. This results in citizens ending up losing faith in the integrity of public administration. In the current era of competition among countries to attract direct foreign investments, investors will go to countries with less red tape and free from corruption.

2.7 CORRUPTION IN NAMIBIA

I must acknowledge that there exists limited local literature and documentation on corruption in Namibia. Kavitjene (2001) researched on this topic, but he has not placed strong prominence on anti-corruption mechanisms and strategies. The thrust of Kavitjene's Research Paper was on documenting the existence of corruption in the Namibian bureaucracy, using the Case Study of the Department of Civic Affairs in the Ministry of Home Affairs.

The study addressed three basic issues, namely the symptoms of corruption, the lack of administrative strategies within the Department and the effectiveness of measures to combat this scourge. Kavitjene found that budget controls in the Department were not tight which could have led to the risk of fraud and abuse of resources.

It was observed that such negligence has resulted in over-estimations, over-expenditure and under-expenditure in the Department. It also found that the Management Cadre disregarded the existing regulations and directives which led to unauthorised expenditures, poor budget control and no stock-taking (Kavitjene 2001: 52).

It was also found that there was a lack of proper planning and forecasting within the Department. The lack of planning and disregard of the Treasury Instructions was evidenced in the money being committed prior to approval by Parliament. Cashbooks were also not properly kept, especially during the 1996/97 and 1997/78 Financial Years respectively, as a result of which the collected revenue could not be verified (Kavitjene 2001:52). It seems that combination of low capacity for managing public accounts which in a way contributes to lack of proper checks and balances was prevalent in the Department.

Furthermore, Keulder and Wiese (2003:5) stated that since 1998 Namibia's position on Transparency International Index (TII) (Rank 28th) remains almost fixed which suggests that the widespread corruption is not yet embedded in the society. The current levels of corruption are perceived high, but the actual experiences of this menace are much lower. To improve such perception, access to Government's services and documentation needs improvement.

Towards this, successful institutional reforms and public integrity programmes will help to reduce negative perceptions of corruption by minimising the actual incidences of this anti-social behaviour.¹

It is therefore critical to implement anti-corruption efforts on an ongoing basis. Thus, corruption ought to be dealt with through Government structures as an essential aspect of its risk management procedures, while prevention and enforcement are also critical strategies. Relying on a '*big stick*' approach to root out corruption can be uncertain, ineffective and wasteful. Hence, it is critical to adopt a holistic approach to address pertinent aspects that seeks to combat corruption. This includes effective legal safeguards, mandate of anti-corruption agencies, the role of civil society, the political will, adequate resources as well as addressing the fear of consequences, especially in cases of whistle blowers (Sherbourne 2001: 2).

Sherbourne (2001:1) has also stated that most literature concluded that the causes of corruption in Africa do not differ in any fundamental sense from any corruption elsewhere in the globe. Interestingly, most ingredients that perpetuate and encourage corrupt practices in the world are evident in Namibia. For instance, if the GRN continues to use public employment to reduce unemployment directly, the public sector wages are likely to decline, thereby encourage corruption.

Namibia is endowed with abundant natural resources such as gold, diamonds, copper and uranium. Thus, if corruption is tolerated, the country's resources will only

¹ According to TI, Namibia has dropped 8 places to 55 on an International Corruption Index in 2006. However, the Namibian Director of the ACC brushed aside such findings and described them as mere perception than reality. He expressed doubts over formula used to calculate index because it was not indicated in the reports, even after the TI Secretariat Meeting in September 2006 (Informante 9/11/06 :3).

benefit the few at the expense of the majority. More disturbingly, the implementation of Black Economic Empowerment (BEE) initiatives is not taking place in a transparent framework. Thus, it seems that many efforts in combating corruption depend on the political leadership's willingness to deal with this anti-social behaviour (Sherbourne, 2001:1-2).

In Namibia, the BEE policy is droopily implemented because no legislation was promulgated yet to facilitate this process. In the absence of clear legislative definition and guidance, this initiative is likely to benefit handful of elite at the expense of the majority citizens. This initiative borrowed heavily from South Africa and Malaysia and therefore failed to address challenges facing Namibia. To address this, the Cabinet has agreed to adopt a new term Transformational Economic and Social Empowerment Framework for the Strategy of Socio-Economic Transformation in Namibia (Government Information Bulletin, September 2006:5).

CHAPTER THREE

SIMILAR EXPERIENCES WITHIN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

3.1 INTRODUCTION

Let us now briefly look at corruption with the specific reference to anti-corruption mechanisms and strategies within the SADC context. Despite its long history of existence, countries in the developing world have made strenuous efforts in fighting corruption. This was effected through the adoption of the anti-corruption mechanisms and strategies. To gain better understanding of these mechanisms, the study pays special attention to the experiences of two African countries, namely Botswana and Zambia. The reasons for selecting these countries are two fold. Both countries are Member States of the Southern African Development Community (SADC). The two countries have different degrees of fighting corruption.

3.2 BOTSWANA

Since independence in 1966, Botswana remains one of the few African countries as well as in the world that escaped widespread scourge of corruption. According to Transparency International's most recently published Corruption Perception Index, Botswana is listed among the least corrupt countries on the African continent, while it was ranked at number 37 in the world in 2006 (*The Namibian*, 7 November 2006:7).

Botswana has introduced and initiated several acts and institutions such as the well-publicised Directorate on Corruption and the Economic Crime (DCEC), the Auditor

General and independent Judiciary that are believed to have partly rendered assistance and support in curbing and stamping out corruption in its public institutions (Briscoe and Hermans 2001:1-2).

The reputation of Botswana's fight against corruption has gone beyond its borders. Unlike many African countries, Botswana's major innovations in democratic accountability are indigenous in their origins. Originally, they are believed to have been derived from local need rather than from efforts to satisfy the demands of foreign or international agencies. Also, the democratic governmental accountability in Botswana is tied into the struggle within the political classes amongst its very contending groups. This implies that critical elites have interest in preserving the mechanisms of democratic institutions (Briscoe and Hermans 2001:68).

This is reflected in the Lecture of President Festus Mogae of Botswana at the Institute of Development Studies, Sussex University, Great Britain, where he disagreed with a notion of perceiving Botswana's development experience as some sort of a miracle. Instead, the President maintained that Botswana's success is attributed to relative openness in economic policy-making, national development planning and setting of right priorities. These strategies are coupled to constitutionally entrenched role of the Auditor General and independent judiciary to keep corruption in check (Mogae 2005).

Furthermore, transparency is another antidote in the fight against corruption because an official who is operating behind a cloak of secrecy is likely to abuse power than

the one who works in a transparent environment. These facts are, however, only viable and feasible in an environment where good governance, accountability and democracy prevail. This indicates that Botswana's legal and institutional frameworks for combating corruption are generally adequate and it can be fairly concluded that they play significant role in the fight against corruption. In short, the remarkable success of Botswana in the fight against corruption is mainly attributed to the existing co-ordination between the Government, civil society and public sector (Briscoe and Hermans 2001:50).

In the final analysis, Botswana's highest per capita reserves in the world and low levels of debts have freed it from debt serving problem. This has enabled Botswana to adequately fund her anti-corruption agencies. As mentioned by President Mogae, the country has strict system of accountability, while the Presidency gives free rein to highly autonomous technocrats. Also, continuous pattern of development planning and strict budgeting procedures play critical role in promotion and development of Botswana's economy. The bureaucracy is in the hands of competent trained specialists recruited on merit with a significant proportion being well-remunerated tenured expatriates. Since independence in 1966, these technocrats have managed the economy in the interest of long-term development without facing political and social pressure.

As a result of these factors, Botswana seems to be doing well in combating corruption by African and world standards. However, it worth mentioning that Botswana's success is not entirely attributable to her anti-corruption agents. Instead,

transparency, accountability and good governance play critical role in diminishing corruption as earlier indicated.

3.3 ZAMBIA

Unlike Botswana, in Zambia, as in many developing countries, corruption bears down most heavily upon the poorest sections of the society who pay the high price of distortions and deprivations that it produces. Corruption has led to diversion of scarce resources, thereby aggravated the misery and sufferings of the ordinary people (Gibson 2003:2). Zambia too, introduced several anti-corruption mechanisms and strategies such as the Penal Code, CAP 146, the Anti-Corruption Commission (ACC) and the Commission of Investigation. Despite these mechanisms and strategies, corruption persisted in its public sector (Briscoe and Hermans 2001:27). To grasp its root causes, it is significant to look at corruption in Zambia from two perspectives, namely during the tenure of the Founding President Kenneth Kaunda and his successor President Frederick Chiluba.

Gibson (2003:27) has stated that President Kaunda exhibited the political will to fight corruption. For instance, he sacked his two Cabinet Ministers who were involved in awarding contracts to a company in which they had interests. He also detained 24 prominent Zambians allegedly involved in drug trafficking, including his right hand man, Mr Vernon Mwaanga.

Surprisingly, three of the former detainees subsequently became senior political office bearers in the first Cabinet of President Chiluba. Although the anti-corruption mechanisms and strategies failed to produce the desired goals effectively, President

Kaunda had shown political will to fight corruption which curbed it to become embedded in the Zambian political system.

On the contrary, President Chiluba was not only accused of condoning corruption but also allegedly benefited from this menace. The Zambian local newspaper, *The Post*, reported that several Ministers in Chiluba's Cabinet bought the Government properties such as vehicles and houses at far below market prices. Despite the publicity of these allegations, the President ignored them and failed to reprimand the culprits. This indicates that a culture of corruption became entrenched in the Government of President Chiluba. This inclination severely undermined and paralysed the effectiveness of the anti-corruption mechanisms and strategies in Zambia (Gibson 2003:28).

The President is also accused of utilising a private financial firm, Access Finance, to divert huge sums of money out of Zambia on pretext that they were used for national security purposes (*Die Republikein* 13 July 2004:4). President Chiluba is still awaiting trial on allegations of corruption and mismanagement of public resources during his term of Office South African Broadcasting Corporation Africa (SABC), 21H00 News, 20 July 2004).

In the final analysis, Zambia has a long history of undemocratic single Party rule that was followed by leaders with no experience in democratic governance. The country is also characterised by heavy external debts which led to meagre allocations of resources to its anti-corruption agencies. It is also known that Zambia has history of

poor planning, including abandonment of long-term planning. Zambia's anti-corruption agencies were poorly resourced and un-coordinated. As a result, corruption has become a norm in Zambia and fighting it has been difficult ever since.

The two cases clearly indicate that good laws and well directed policies alone are insufficient to thwart corruption, unless the institutional capacity exists to implement such laws and policies. It further touches on the issue of the political will, particularly that of a President who should not only condemn corruption but also mete out appropriate punishment against corrupt officials, regardless of their status in the society. In fact, no single Government agency on its own can effectively tackle corruption.

CHAPTER FOUR
ANTI-CORRUPTION MECHANISMS AND STRATEGIES OF THE
NAMIBIAN GOVERNMENT

4.1 INTRODUCTION

The GRN has put in place mechanisms and strategies aimed at thwarting mal-practices and ensuring prudent utilisation of public resources. These mechanisms and strategies are striving to promote transparency and accountability in managing public resources. These include the Anti-Corruption Act of 2003, the Offices of the Ombudsman and the Auditor General and the ACC, among others. It is now appropriate to look in depth at some of these anti-corruption mechanisms and strategies of the GRN.

4.2 THE ANTI-CORRUPTION ACT, 2003

The Anti-Corruption Act (Act No.8 of 2003) was promulgated by Parliament and signed by President Sam Nujoma on 16 July 2003. The Act was introduced to eliminate corrupt practices within the Namibian Public Service and the SOEs. In this context, it serves as one of the deterrent measures for the prevention and punishment of corrupt practices and other related cases. To uproot corruption, it makes provision for the establishment of the Anti-Corruption Commission that specifically deals with the alleged cases of corruption and the abuse of power and public resources (Government Gazette, No. 3037, 4 August 2003:2).

4.3 THE ANTI-CORRUPTION COMMISSION

4.3.1 Appointment

Notwithstanding the provision of the Public Service Act, 1995 (Act No. 13 of 1995), the President has the prerogative to nominate for appointment of the Director and the Deputy Director of the Commission. Upon nomination, the National Assembly (NA) has the mandate to appoint the incumbents. After appointment, the Prime Minister may require the incumbents to furnish statements reflecting their assets and liabilities, including interests in business, occupation, companies or close co-operations.

The Director and the Deputy Director are appointed full-time for a period of five years, but they may be re-appointed upon expiring of their terms of office. Thus, the President with the confirmation of the NA determines their conditions of service. In case, where the Director or the Deputy Director is unable to perform the functions due to mental or physical disability, or being found guilty of misconduct, the President must notify the Chief Justice who, after consultation with the Judicial Service Commission (JSC) and within 30 days, must submit a report and recommendations to the Head of State. Nevertheless, if the termination of the appointment of the Director or Deputy Director is referred to the Board, the President has the right to suspend the incumbent from engaging in official duties, pending on the outcome of an inquiry (Section 7 and 9, Act No. 8 of 2003).

Upon receipt of the Board's report and recommendations for removing the incumbent, the President must communicate the findings and reasons to the NA within 30 days. After the adoption of a resolution by the NA for the removal of the incumbent, the President will dismiss the Director or the Deputy Director. The Commission consists of the Director, the Deputy Director and administrative staff (Section 9, Act No. 8 of 2003).

4.3.2 Functions

The functions of the Commission entail the following: to receive or initiate and investigate the alleged cases of corruption; to consult, co-operate and exchange the information with the appropriate bodies or authorities, including bodies or authorities in foreign countries that are conducting similar inquiries or investigations; to consider whether investigations are essential in relation to allegations as well as to determine whether such investigations must be executed by the Commission or be referred to other appropriate authority; and to educate the general public and disseminating information on the negative impact and dangers of corruption (Section 3, Act No. 8 of 2003).

The Commission may also conduct criminal proceedings in respect of offences committed under the Act, in cases where the Prosecutor General delegates the authority to prosecute. Thus, the Commission will be able to execute this function if it is resourced by personnel with appropriate legal qualifications to appear in courts of law (Noa 2006).

The functions include the publication and distribution of literature on corruption as well as the holding of public meetings; and to examine the practices, systems and procedures of public entities as well as the private bodies in order to facilitate the discovery of corrupt practices and securing the revision of systems and procedures compatible with effective performance of their duties which are essential to reduce the likelihood of the occurrence of corrupt practices (Section 3, Act No. 8 of 2003).

The Director has the power to appoint investigating officers and special investigators. The Director, in consultation with the Prime Minister, is allowed to appoint a person with credible knowledge and skills in a particular field to be investigated to act as a special investigator. Usually, a special investigator is appointed on a temporary basis as per agreement between the Director and an official. The Director is also required to submit an Annual Report on the activities of the Commission to the Prime Minister, not later than 31 March of each year. In return, the Prime Minister must submit a report to the NA within 30 days upon its receipt. However, if the NA is in recess, a report must be tabled within 30 days after the commencement of its first session (Noa 2006).

4.3.3 Strategies

To fight corruption effectively, the Commission has adopted multi-pronged approaches, namely the Intelligence Unit, Investigation and Prosecution Unit and Awareness Campaigns.

4.3.3.1 Intelligence Unit

This unit serves as the Reporting Centre for the Commission. The general public is at liberty to call and lay complaints or provide information as well as advising the Commission. A toll-free line (0800222888) was installed for this purpose (Julius).

4.3.3.2 Investigation and Prosecution Unit

This Unit came into being to investigate corrupt practices and prosecute culprits. This is one of the main functions of the Commission. As mentioned earlier, Section 31 (2) of the Anti-Corruption Act authorises legally qualified staff of the Commission to prosecute alleged culprits (Noa 2006).

4.3.3.3 Awareness Campaigns

It remains the responsibility of the Commission to alert the public and to disseminate information about the dangers of corruption. This means that it is befitting to mobilise the public to remain pro-active and not wait until a crime is committed (Noa 2006).

4.3.4 Powers

Pertaining to investigation of corrupt practices, citizens are at liberty to avail vital information about the alleged corrupt cases. Hence, the Commission may require an informant to furnish detailed information, either orally or in writing.

Before taking action, the Commission should verify the seriousness of a conduct or involvement to which the allegation relates and to determine whether it warrants investigation or not; the credibility of the availed information – whether or not the allegation is frivolous or vexatious or is made in good faith; and whether or not the conduct or involvement to which the allegation relates has been the subject of investigation or other action by any other appropriate authority (Julius 2006).

The Act also authorises senior members of the Commission to enter premises and search under warrant. Premises may be entered by virtue of a warrant issued by a Judge of the High Court or by a Magistrate in whose jurisdiction the premises are located. Notwithstanding Section 22 of the Act, an authorised officer may without a warrant of entry and search enter a premise if there are reasonable grounds for believing that the person or persons therein is or are in possession of any document that has a bearing on investigations (Section 26, Act No. 8 of 2003).

It is an offence to refuse to hand-over any document that contains vital information to an authorised officer. In case of refusal, the officer may request a Registrar or Sheriff of the High Court to attach and remove a document for safe custody until a competent court determines its contents. An authorised officer or a Police Officer who may accompany and assist an officer from the Commission may overcome resistance to entry and search, through use of minimal force such as breaking a door or window or opening any container on the premises (Section 26, Act No. 8 of 2003).

Furthermore, the Commission has power to investigate personal accounts, share accounts, purchase accounts or any safe box in any bank, building society or financial institutions. Refusal to adhere to instructions of an authorised officer is a serious offence which carries a fine of N\$50 000 or imprisonment, or both fine and imprisonment. Equally, it is a crime to defame an authorised officer on duty or ignoring to appear at a specified time and place without convincing reasons. Such offence makes a person liable to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or both fine and imprisonment (Section 26, Act No. 8 of 2003).

Upon completion of an investigation, the Director must refer the matter and the relevant information to the Prosecutor General for consideration. The Anti-Corruption Commission is headed by Advocate Paulus Noa and his Deputy Advocate Erna van der Merwe (Noa 2006).

4.3.5 Finance

State Revenue Fund

	2005-06	2006-07	2007-08	2008-09
Operational Budget	2,500	6,579	6,846	6,961
Development Budget	0	0	0	0
Development Partners	0	0	0	0
TOTAL	2,500	6,579	6,846	6,961

*(Estimates of Revenue and Expenditure for the Financial Year April 2005 – 31 March 2006).

Programmes

	2005-06	2006-07	2007-08	2008-09
Investigation of Alleged Corruption	2,500	4,000	4,150	4,250
Prevention and Curbing of Corrupted Practices	0	2,579	2,696	2,711
TOTAL	2,500	6,579	6,846	6,961

*(Estimates of Revenue and Expenditure for the Financial Year April 2005 – 31 March 2006).

4.3.6 Challenges

Section 31, Act No. 8 of 2003 empowers the Commission to prosecute whenever the Prosecutor General delegates it to do so. This reflects the autonomy and impartiality of the Commission. However, the shortage of human and financial resources is militating against this objective. As per tables on pages 46 and 47 the Commission was only allocated N\$6.5 million during the 2006/2007 Financial Year. This amount is meant to cater for salaries, office equipment, securing services of investigators and support services of the Commission. The Commission is also facing the shortage of qualified personnel (Noa 2006).

To attract skilled personnel, the Commission was supposed to offer competent packages to aspiring candidates. Its limited resources and long distances are likely to undermine its objectives. Consequently, the Commission concentrates more on local alleged corrupt practices in order to reduce its expenditure. The decentralisation of its services could have benefited the majority citizens, particularly those residing in rural areas but due to shortages of financial and human resources, this cannot be realised (Noa 2006).

Notwithstanding the assurances by President Pohamba about the protection of whistleblowers, there is still no law to protect informants. The envisaged law will

encourage Namibians to come forward and expose corrupt practices in public and private sectors. It was found that some people are willing to avail information but they fear victimisation, especially by employers. According to the Director of the ACC, the protection of informants is critical because the Commission's success depends heavily on information from the public.

In 1998, Namibia's rating stood at 5.3; in 2002 it rose to 5.7; later downward turned to 4.7 in 2003 and 4.3 in 2004, respectively. In addition, the Namibia Institute of Democracy's Report of 2005 based on media reports on corruption indicated that there were 467 cases of alleged corruption recorded in that year. It also revealed that about 1 356 cases of alleged corruption were reported in 2003 alone. The numbers swelled to 1 182 in 2004 and 1 252 in 2005, respectively (NID 2004:18).

To date, the Commission has received over 300 alleged cases of corruption since its inception in 2005. Due to aforesaid impediments, the Commission has dealt with less than 10 percent of such cases. Among these cases, it managed to arrest a senior Government official who is accused of producing and selling fake gambling licenses. Other cases include the arrest of junior officials who are accused of flouting rules to capitalise on personal gains.

Recently, the Director of the Anti-Corruption Commission asked the Permanent Secretary (PS) in the Ministry of Defence to investigate alleged corrupt practices involving illegal deductions from salaries of members of the Namibian Defence

Force (NDF), the arrest of a female Police Officer attached to the Special Field Force Headquarters in Windhoek after she allegedly fraudulently enlisted the services of close family member to write Grade 12 examinations on her behalf and the probing of N\$3.1 million bogus deal by the Ministry of Defence in 2001 (*Insight*, September 2006:40). These cases indicate that at least some actions are being taken by the Anti-Corruption Commission.

4.4 THE OFFICE OF THE AUDITOR GENERAL

4.4.1 Appointment

The Auditor General is appointed in terms of the Article 127 of the Namibian Constitution. The incumbent is appointed by the President on the recommendation of the Public Service Commission (PSC) and with the approval of the National Assembly. The duties and responsibilities of the incumbent originate from Sections 25 and 26 of the State Finance Act, 1991 (Act of 1991). The Office audits the GRN's expenditures, including producing reports on Government assets, Regional and Local Councils and certain statutory entities.

4.4.2 Strategies

To strengthen its operations in curbing the wastage of the State resources and assets, the Office adopted the following strategies, namely information technology, human resource management, quality insurance, performance audit, communication and media as well as the African Organisation of English-Speaking Supreme Audit Institution (AFROSAI-E). The main objective of this Institution is to improve the

quality of audit in Africa. The deadline for implementation of these strategies is 2009 (Auditor General's Strategic Plan 2004:3).

4.4.2.1 Human Resource Development

The Office intends to further strengthen its operations through capacity building, especially training of human resources in financial audit, performance audit, information technology audit and environmental audit. It further needs to offer competent packages to retain its auditing staff as well as in forensic audit and fraud prevention (Auditor General's Strategic Plan 2004:4).

4.4.2.2 Quality Assurance

This strategy is meant to promote and develop linkage with regional and international entities. This also includes peer review with the intention to compare the Office's operations with those of its counterparts (Auditor General's Strategic Plan 2004:5).

4.4.4.3 Functions

The Office provides reports to the National Assembly (NA), regarding the performance of the economy and the effective utilisation of public resources by the said entities, including the Central Government. In this sense, it strives to ensure the prudent utilisation of public resources.

It further aims to render assistance in auditing entities to ascertain accountability and transparency in managing public resources. The latter will be realised through adhering to and complying with the regulations and accounting requirements and

standards. The Office is auditing the financial statements of the Central Government Ministries, Government Funds, Boards, Statutory Entities, Regional and Local Councils and Village Councils. It is also responsible for auditing approximately 112 statutory bodies (Kandjeke 2006).

The Auditor General is obliged to compile an Annual Report, regarding the activities of the Office. The report is tabled in the NA after being thoroughly scrutinised and discussed by the National Assembly's Select Committee on Public Accounts. Such considerations include the opinions and evidence obtained from the Accounting Officers (Permanent Secretaries) and their Financial Advisors. The Committee submits their findings to the NA, including constructive recommendations with the aim to improve financial management, control and use of public money (Office of the Auditor General 2005:2).

Pertaining to auditing, the Office concentrates and places much emphasis on three critical areas, namely the financial audit, performance audit and training. The main objective of the former is to enable the AG to form an opinion on financial statements so as to ascertain that the figures reflected in such statements are accurate and fairly represented.

It also ensures that the public funds are being used for the purpose they have been budgeted for. It further ascertains that the GRN expenditure transactions conform to

the provisions of the State Finance Act of 1991 (Office of the Auditor General 2005:2).

The performance audit too, enhances and promotes the better usage of the public resources. Its operations are based on three elements, namely economy, efficiency and effectiveness. Its mandate and principles are based on the following hypothesis: *Are the resources acquired at the lowest possible costs without compromising quality? Are the resources applied in the correct manner? Has the use of the resources achieved the Mission Statement and the Vision of the Office?* (Office of the Auditor General 2005:3).

The performance audit report brings all urgent issues that are worthy attention of the National Assembly. This includes the envisaged challenges such as the effective and efficient utilisation of public resources. It also provides recommendations in respect of sound and transparent strategies for dealing with the public resources. These strategies are aimed at improving the optimal and prudent management of the State resources (Kandjeke 2006).

In the view of improving service delivery and capacity building, the Office requires the recruitment of competent and qualified staff. In this light, the officials are expected to possess sufficient knowledge and skills to enable them to detect and verify errors contained in financial statements before auditing.

The recruitment of personnel with high integrity and experience will enable the AG to present reliable and error-free financial statements to the National Assembly. Dr

Fanuel Tjingaete served as Auditor General from 1993-2003 (Hopwood 2004:16). The Office is currently headed by Mr Junias Etuna Kandjeke who took Office in 2003.

4.4.4 Finance

During the 2004/2005 Financial Year, the Office of the Auditor General's Vote 04 received the following:

	Actual Previous 2002-3	Appropriation 2003-04	Estimate 2004-05
Personnel Expenditure – Sub-Total	N\$7,058,361	N\$8,054,000	N\$9,276,000
Goods and Other Services – Sub-Total	N\$2,508,543	N\$2,645,000	N\$2,051,000
Total Current Expenditure	N\$9,566,904	N\$10,699,000	N\$11,327,000
Total – Operational	N\$9,566,904	N\$10,699,000	N\$11,327,000
Grand Total	N\$9,566,904	N\$10,699,000	N\$11,327,000

*(Estimate of Revenue and Expenditure for the Financial Year 1 April 2004 – 31 March 2005).

During the 2005/2006 Financial Year, the Office of the Auditor General's Vote 04 received the following:

	Actual Previous 2003-04	Estimate 2004-05	Estimate 2005-06
Personnel Expenditure – Sub-Total	N\$8,033,859	N\$2,421,000	N\$2,795,000
Goods and Other Services – Sub-Total	N\$2,646,613	N\$1,539,000	N\$1,459,000
Subsidies and Other Current Transfers – Sub-Total	0	N\$72,000	N\$96,000
Acquisition of Capital Assets – Sub-Total	0	N\$150,000	N\$215,000
Total Capital Expenditure	0	N\$150,000	N\$215,000
Total – Operational	N\$10,680,473	N\$4,182,000	N\$4,565,000
Grand Total	N\$10,680,473	N\$4,182,000	N\$4,565,000

*(Estimate of Revenue and Expenditure for the Financial Year 1 April 2005 – 31 March 2006).

4.4.5 Challenges

Article 127 of the Namibian Constitution requires the Auditor General to table an Annual Report within 30 days in the NA. However, the incumbent does not have authority to enforce this. This has led to delays in the submission of such reports to the NA, thereby denying members of Parliament an opportunity to express their

opinion on management of the State resources on time. Also, the Act authorises the Auditor General to table such reports in the NA but not in the National Council. Hence, the GRN has authorised the Ministry of Finance to draft a new law that will give the Office more authority to deal with culprits. The law will enable the Office to comply with international standards.

According to the Auditor General Report, most of Government's institutions continue to over-spend and under-spend their budgets. This has resulted in millions of dollars being incurred in unauthorised expenditure. For example, the Department of Civic Affairs in the Ministry of Home Affairs and Immigration overspent by more than N\$10.1 million in the 2004/2005 Financial Year. During the period under review, the Electoral Commission of Namibia (ECN) also overspent by N\$31.7 million. The Report further revealed that applicants themselves approved subsistence and travel claim forms at the Commission, while an internal audit was only created in 2005. The National Council (NC), the Otavi Village Council, the Ondangwa Municipality and the Ministry of Agriculture, Water and Rural Development were among culprits (*The Namibian*, 5 October 2006:5).

The Office is not yet independent in the sense that it is still supervised by the Executive. This means that the Office is treated in similar fashion with the rest of GRN Office/Ministries/Agencies. This can be seen as if the Office is serving as internal auditor of the GRN. Instead, the Office must operate as independent external auditor of the State (*The Namibian*, 21 August 2006:2).

The Auditor General also revealed that his Office is auditing its own books. This has the potential to indirectly enhance inefficiency, thereby promote corrupt practices. Research elsewhere revealed that some of Offices of the Auditor Generals were less prudent on expenditure than some of the institutions they have audited. According to *The Namibian*, 5 October 2006:3, a private firm found that the Office of the Auditor General overspent by N\$503.42 and N\$1 186.91 during the 2004/2005 Financial Year. The Office is faced by the scarcity of both human and financial resources. Its limited budget is negatively affecting its operations in terms of office equipment, training and investigation. Due to limited office space, the Office of the Auditor General is operating from different premises. Due to lack of space, the Office could not fill 26 vacancies on its establishment (Kandjeke 2006).

Weak financial controls and wrong ledger entries, overspending and under-spending, flouting of Treasury Instructions to ensure timely recovery of subsistence and traveling allowances, lack of effective internal audit offices within the GRN institutions and failure of the Accounting Officer to report financial irregularities are some of the daunting challenges facing the Office of the Auditor General (*The Namibian*, 5 October 2006:3-5).

In spite of these institutional weaknesses, however, the Office has successfully uncovered and reported financial irregularities at several GRN institutions. For example, its co-ordination with the Office of the Ombudsman led to the discovery of mismanagement that prevailed at the Social Security Commission. This has resulted in the launching of the Presidential Commission of Inquiry into the Activities and operations of the Social Security Commission in 2002 (Kandjeke 2006).

Eventually, the authority dismissed its Chief Executive Officer (CEO). This case is still pending. It also launched investigations as per Presidential directives at the Namibia Filming Commission, the Ongopolo Mining and Processing, Air Namibia and Ministry of Works, Transport and Communication, among others. The Performance Audit Report on the Utilisation of Government Quarters (2001:2) revealed that illegal squatters occupied some GRN houses, while some garages were turned into extra income generating facilities. The Office continues to investigate cases of alleged scams and corrupt practices but its hands are tight because it does not have power to bring alleged culprits to book (Kandjeke 2006).

4.5 THE OFFICE OF THE OMBUDSMAN

4.5.1 Origins

The word “*Ombudsman*” is originally derived from a Scandinavian word “*ombud*” which means “*citizen defender*”. This refers to the Ombudsman as a person who helps to resolve and deal with complaints of the general public. The modern concept of the Ombudsman’s comes from Sweden and it dates back to 1809.

Many countries in the world, including Namibia, have created Offices of the Ombudsmen to fight corruption, the abuse of power and mal-administration by the politicians and public servants (Go to the Ombudsman, 1998:1).

4.5.2 Appointment

Chapter 10, Article 89 of the Namibian Constitution (1990) has made the provision for the establishment of the Office of the Ombudsman as the constitutional organ of

the State. The Office is characterised by its impartiality and independence in dealing with the issues brought for investigation (Gawanas 2002:2). Constitutionally, the President on the recommendation of the Judicial Service Commission (JSC) appoints the Ombudsman.

4.5.3 Functions

In accordance with the Ombudsman Act, 1990 (Act No.7 of 1990), the incumbent is required to compile an Annual Report regarding the activities of the Office. The duties and responsibilities of the Ombudsman entail to stop violations of fundamental rights and freedoms by any person or any organisation, including Government, parastatals, private bodies or individuals; to protect the country's natural resources such as animals, plants, water and minerals, including the destruction of environment; to investigate the alleged or suspected corruption and the misappropriation of public money and properties; and to investigate complaints relating to the failure to achieve balanced structuring and equal access or fair administration in the Public Service Commission (PSC), the Defence Force, Prisons and Correctional Services and the Police Force.

However, the Office is not allowed to inquire or investigate complaints that are perceived as trivial or already subjected to court proceedings.

The Office has the authority to sub-poena any person to appear before it for questioning. This includes the power to peruse through official files, records and secret documents. Hence, it remains an offence to refuse to hand over such documents upon the request by the Ombudsman. Such offences make an individual

liable to a fine not exceeding N\$2 000 or to imprisonment for a term not exceeding 12 months or both. After an inquiry or investigation, the Ombudsman has to notify the complainant about an outcome of an investigation.

The Office has the authority to report any complaint and its findings to a superior of an offending person; refer the matter to the Prosecutor-General (PG) or the Auditor General or both for decision. The Office can further forward its recommendations to the President, Cabinet or Attorney General for consideration and appropriate action. Despite its efforts to achieve its goals and objectives, the Office faces numerous challenges, discussed hereunder. Since 1990, this position has been occupied by Advocate Fanuel Jariretundu Kozonguizi (1990-1995), Advocate Bience Gawanas (1996-2003), Acting Ombudsman Advocate Efraim Kasuto (2003-2004), Judge Simpson Mtambanengwe (2003) and the current incumbent Advocate John Walters (2004-2006) (Hopwood 2004:16).

4.5.4 Strategies

4.5.4.1 Review of its Organisational Structure

This strategy intends to improve effectiveness and maintain a clear focus on its mandate. Towards this, the Office needs to establish an assessment and resolution unit to facilitate a streamlined procedure for receipt, assessment and resolution complaints (Ombudsman' Strategic Plan 2003-07:4).

4.5.4.2 Improvement of Service Delivery

This seeks to provide specialised training in specific fields; recruit professional staff with relevant skills or expertise as well as to evaluate the impact of educational and promotional programmes (Ombudsman's Strategic Plan 2003-07:5).

4.5.4.3 Protection of Human and Constitutional Rights

It aims to conduct inquiries into human rights violation; promote a culture of tolerance and to advocate for the right of marginalised and vulnerable groups in the society (Ombudsman's Strategic Plan 2003-07:8).

4.5.5 Enforcement Powers

The Office of the Ombudsman does not possess the executive powers to compel corrective action or make binding decision on investigated matters. It can however refer such issues to the attention of the Prosecutor General, Auditor General or bring the proceedings in courts of law. The power to refer issues to the said institutions is important, especially when dealing with complaints relating to human rights or corruption.

For instance, the Office recommended the Auditor General to conduct a forensic audit at the Social Security Commission. Its recommendations were accepted which eventually led to the establishment of the Presidential Commission of Inquiry into Activities, Affairs, Management and Operations of the Social Security Commission in 2002 (Walters 2006).

4.5.6 Investigations

The Office has authority to conduct formal investigations, in cases, where the allegations are complex or facts are not easily discovered. At times, these cumbersome tasks involve prolonged interviews, scrutinising documents and files as well as using the powers of sub-poena. However, towards the end of such investigative processes, a report might be compiled with or without recommendations and submitted to an institution for implementation. Such prolonged investigations are sometimes attributed to the reluctance of some institutions to respond to queries or request for the essential information. The Office is often accused of dragging feet by complainants in resolving their complaints (Mwanyangapo 2006).

4.5.7 Finance

Financially, the Office of the Ombudsman operates under the Ministry of Justice and Attorney General where it receives funds. In the absence of its own budget, it remains difficult to fund its operations and activities. This undermines its operations. For example, it is critical to access money for conducting the public service delivery surveys in order to assess and publicise the literature on such findings.

To ensure effectiveness of the literature, it is necessary to translate its contents into local languages. This process is time consuming and costly (Cupido 2006).

During 2006-07 the Office of the Ombudsman received the following under Vote 16:

	Estimate 2006/07	Estimate 2007/08	Estimate 2008/09
Personnel Expenditure – Sub-Total	N\$3,392,00	N\$3,456,000	N\$3,457,000
Goods and Other Services – Sub-Total	N\$1,157,000	N\$875,000	N\$1,319,000
Subsidies and Other Current Transfers – Sub-	N\$18,000	N\$13,000	N\$13,000

Total			
Interest Payment and Borrowing Related Charges – Sub-Total	0	0	0
Total Current Expenditure	N\$4,567,000	N\$4,344,000	N\$4,879,000
Acquisition of Capital Assets – Sub-Total	N\$25,000	N\$10,000	N\$25,000
Capital Transfers – Sub-Total	0	0	0
Total Capital Expenditure	N\$25,000	N\$10,000	N\$25,000
Total Lending and Equity Participation	0	0	0
Total Amortization	0	0	0
Total Other Statutory	0	0	0
Grand Total – Operational	N\$4,596,000	N\$4,354,000	N\$4,904,000

*(Estimate of Revenue and Expenditure for the Financial Year 1 April 2005 – 31 March 2006).

4.5.8 Administrative Matters

All staff members of the Office are civil servants and their services are subjected to the Public Service Rules and Regulations. For recruitment of staff, the Office does not only emphasise skills, but it also considers the issues of ethics and commitment. These serve as pillars and guide the Office because the staff is expected to adhere to and maintain high professional and ethical standards. The Office is still expected to strengthen its human resources in terms of training and research (Cupido 2006).

The Office is required to develop information technology and to acquire the skilled staff; seeking creative ways of marketing its activities, especially strategies which are aimed at educating the illiterate people; the decentralisation of its activities; to receive speedy responses from institutions; the publication of investigative reports to keep the public abreast of outcome of such investigations; to create better co-operation mechanisms with other Government Institutions, Parliament, civil society and international organisations and to enhance receptive attitude towards recommendations it makes. The Office of the Ombudsman has recorded remarkable progress in promoting the democratic governance, consolidating the rule of law,

protecting human rights and enhancing a culture of respect for human rights (Cline 2006).

4.5.9 Challenges

4.5.9.1 Outreach capacity

The Office of the Ombudsman does not have regional offices to ensure that people living in the remote areas have access to its services. Thus, the Office usually sends investigators to receive and resolve complaints as well as to explain its role and responsibilities. Such trips involve financial resources, especially the payment of travelling allowances of its officials. It is planning to extend its services, through establishing similar centres throughout the entire country. The extension of its services through creation of new centres enabled the Office to render assistance to the people residing in the remote areas.

Indeed, the Office has now established Regional Offices in Keetmanshoop and Oshakati, respectively. Similarly, the lack of in-house expertise to conduct forensic investigation remains one of the major stumbling blocks. Services of consultants are expensive and easily diminish the Office's meagre budget. This has the potential to delay investigations of alleged corrupt practices (Walters 2006).

Pertaining to human rights, the Office is the only institution with constitutional power to receive and investigate complaints in this connection. However, the Office is not yet accredited as a National Human Rights Institute. Hence, essential mechanism was devised to ensure that the Office is accredited and recognised as a

National Human Rights Institute. The lack of co-operation from offending institutions regarding human violation remains an impediment. In this regard, the Office received 195 alleged violations of human rights such as assault by police/prison officers, unlawful detention and accommodating trial-awaiting detainees in toilets due to lack of adequate space (Walters 2006).

During 2004, the Office received and investigated 20 cases of corrupt practices, while in 2005 it dealt with 69 corrupt related instances. According to Ms Cupido, approximately 70 percent of these cases were dealt with in accordance with existing regulations. The Social Security Commission, National Housing Enterprises (NHE), TransNamib and Eenhana Town Council were among institutions which were investigated by the Office of the Ombudsman.

Its remarkable success is also attributed to its co-ordination with the ACC, the Auditor General, non-Governmental organisations (NGO), Legal Assistance Centre (LAC) and the University of Namibia (UNAM) Human Rights Document Centre (Walters 2006).

Unlike other anti-corruption entities, the Office dealt with human rights that are often being violated. This includes unfair dismissal of employees and unprocedural recruitment of relatives and friends. It also investigated assault and other related physical abuse of citizen by the law enforcement agencies. This has proved to be a daunting task and often receives little co-operation from offenders. From time to

time, the Office reprimanded other institutions to review their *mondus operandi* with view to respect rights of their employees (Cline 2006).

For example, in 1997, a complainant was arrested in the south and charged with housebreaking and theft. At the time of his arrest, he was found in possession of suspected money N\$1 414.19. After his release, he was only given N\$714.19, which he refused to accept, and tore to pieces in the Police Station. After the Office wrote to the Inspector General of the Police, the complainant received his money. In a different incident, a Zimbabwean national teaching in Namibia on contract was denied his separate gratuity by the Ministry of Basic Education. The intervention of the Office led to his remuneration of N\$30 000 in January 2004 (Ombudsman's Annual Report 2004:6-7).

CHAPTER FIVE

EFFICACY OF ANTI-CORRUPTION MECHANISMS AND STRATEGIES IN NAMIBIA

5.1 INTRODUCTION

The study confirms that the GRN has successfully established adequate anti-corruption entities. These are the Offices of the Ombudsman and the Auditor General, the Public Service Commission (PSC), the Anti-Corruption Commission and the Namibia Police (NAMPOL), among others. Notwithstanding their existence,

corruption continues to take root in the society. The paper has identified some of the challenges faced by these institutions as follows.

5.2 LOW LEVEL OF COMMITMENT AMONG LEADERS

It is critical for the Government leadership to recognise the seriousness of the dangers of corruption. Despite verbal support, it seems that some politicians are reluctant to practice what they preach. Adequate financial resources are one of the pre-requisites for eliminating corruption. To the contrary, these institutions receive meagre budgetary allocations despite their mandates to fight corruption. For example, the Anti-Corruption Commission received only N\$6.5 million during the 2006/2007 Financial Year. This undermines its mandates in terms of investigation, prosecution and timely completion of tasks. The allocations of meagre resources may be reflective of low level of commitment to anti-corruption on the part of lawmakers, thereby it has turned these entities as “*toothless bulldogs*”.

This has been reflected in the remarks of Prime Minister Nahas Angula when he officiated at the Third Annual Conference of the Southern African Development Community Organisation of Public Accounts (SADCOPA) in Windhoek on 14 August 2006. The Prime Minister stated, “*Without proper powers, Public Accounts Committees will remain toothless bulldogs. I believe this is not the type of the Institutions we want to nurture*” (*The Namibian*, 16 August 2006:3).

The shortage of human capital also negatively affects capacity for forensic auditing, human resource and development of specialised expertise. This is evidenced by failure to attract skilled and qualified personnel. It was also found that some officials

with specialised skills have left service for greener pastures. This shortage often forces them to contract services of local private chartered accounts firms to conduct audits. This has proved to be expensive and unsustainable for the entities.

5.3 FEAR OF REPRISAL

It is believed that many employees witness corrupt practices at their work environments but they keep quiet for fear of consequences. Generally, the public serves as the main source of information, especially whenever law protects the identities and rights of informants. Unfortunately, Namibia does not have a law to protect whistleblowers. This makes informants vulnerable and prevents them from coming forward to disclose malpractices in fear of victimisation, particularly by employers or senior staff. Due to lack of confidentiality and professionalism, identities of informants are sometimes revealed through gossip in corridors eventually putting their lives at risk.

This abnormality is also found in the Ministry of Health and Social Services where revealing of health status of patients is very common. As part of promoting ethical behaviour, there is a need to provide statutory protection for people who are courageous and willing to reveal mal-practices.

5.4 CAPACITY OF COURTS IN HANDLING CASES

Another institution instrumental in the fight against corruption is the judiciary. Namibia's magistracy faces challenges even though it is responsible for the administration of justice. It also plays a significant role in maintaining and protection of human rights. According to local media, the magistracy is suffering

from shortage of personnel and materials. Recently, the Ministry of Justice has approved the appointment of 30 new magistrates. The chronic shortage creates a backlog and causes delays in bringing wrongdoers to book, including those accused of corruption. Even in cases where anti-corruption entities are well funded and manned, their success heavily depends on co-ordination with other institutions. In this light, once the judiciary system becomes weak and unpredictable, efforts to fight corruption become seriously impaired.

5.5 AUTONOMY

The anti-corruption bodies are not yet autonomous regarding decision-making, operations and finance. For example, the Office of the Ombudsman still depends on the Ministry of Justice where it receives its annual budgetary allocation. This means that it has very little influence or control on the allocation of its annual funds.

Because the Office of the Auditor General is supervised by the executive, this creates the impression that the Auditor General serves as the internal auditor of the GRN. This dependency limits and undermines its authority to co-operate and comply with international standards.

5.6 ENFORCEMENT POWERS

Despite their ability to investigate and expose corruption, the anti-corruption agencies do not have the necessary legal backing to take culprits to task. In fact, they do not have jurisdiction to prosecute culprits and recover State funds. This is likely to demoralise the public because most of reported cases are referred to external entities such as the Prosecutor General (PG) and the Police. This can lead to disillusionment

and loss of trust of the public in these entities. Therefore, it is critical to move in with concrete and measurably effective devices, while expectations are still high.

5.7 AUDIT OF THE AUDITOR GENERAL'S ACCOUNTS

It was found that the Office of the Auditor General audits its own books. This practice can easily create room for corruption by officials within the Office. Other researchers elsewhere found that some of the Auditor General Offices were even more corrupt than institutions falling under their jurisdiction. According to a local newspaper, a local firm found that the Office of the Auditor General overspent by N\$503.43 and N\$1186.91 during the 2004/2005 Financial Year.

5.8 DELAYS IN SUBMITTING REPORTS

Procedurally, all heads of these entities are required to table Annual Reports within 30 days in Parliament. Notwithstanding this provision, these heads do not have means to comply with this requirement due to many problems. Some of these problems are caused by delayed submission of accounts by public institutions. Delays in tabling such reports deny lawmakers the opportunity to express opinions on management of the public resources. As a matter of fact, Namibia's Legislature consists of two Houses, namely the National Assembly and the National Council. The current legislation has excluded the National Council from the opportunity to review the reports of these bodies. This has the potential for creating friction between the two.

5.9 PUBLIC EXPECTATIONS

The mere existence of these entities creates room for expectations on the part of the public that all alleged cases of corruption will be dealt with quickly, objectively and effectively. This fight is neither simple nor straightforward, therefore yearning for quick solutions will not be achieved. Due to the increase in corruption, the general public is becoming impatient and seeks the arrest and prosecution of culprits within a short period. Unfortunately, some people expect these entities to react immediately on allegations expressed over the air through the Namibia Broadcasting Corporation (NBC) Call-in Programmes and local media without conducting proper investigations.

When no immediate action is taken, some people think it is because these bodies are themselves corrupt. However, adherence to procedures is critical to ensure fairness and transparency of the process. For example, before arresting a suspect authority must verify facts and collect valid evidence to back their action. The GRN continues to lose million of dollars after competent courts have proven beyond reasonable doubts that some individuals were unlawfully put behind bars.

In case of the Anti-Corruption Commission, the perception is that it is only capable of arresting “*small fish*” but afraid of dealing with those accused of grand corruption. Despite the alleged grand corruption, only one senior public official was arrested for allegedly producing and selling of gambling licenses worth N\$1 million. The arrest of those alleged involved in the grand corruption will convince a sceptical public that

the Commission will perform its duties without fear of favour. The Director of the Anti-Corruption Commission has assured the public that each case will be dealt with on merit.

5.10 PUBLIC AWARENESS

It seems that the operations, mandates and limitations of the anti-corruption bodies are not well understood by the public. In this context, decentralisation can be used as a vehicle to bring their services closer to the people. So far, the Office of the Ombudsman has only two Regional Offices in Keetmanshoop and Oshakati, respectively. No wonder, people at grassroot level cannot distinguish between mandates of these entities.

The research found that some people went to report their marital problems at the Office of the Ombudsman instead of marriage councillors or courts. This indicates that the public appreciates services of these entities but sometimes does not understand their mandates and procedures. Education campaigns will address this matter with a view to diminish corruption.

Public relations officers of these entities are joining hands with print and electronic media to educate the citizens. Again, even where such messages are received, ignorance and illiteracy are militating against this objective. Thus, public education and awareness campaigns through public talk, media and press about the dangers of corruption must be promoted. Also, people must be sensitised about their rights to public goods and services without paying bribes to corrupt officials.

5.11 CO-ORDINATION

It was found that co-ordination exists between the GRN and other anti-corruption entities within and beyond Namibia. On 6 June 1997, the GRN organised the Promotion of Ethics and Combating of Corruption. Among participants were Professor Kadel Asmal, the former Minister of Water Affairs and the Chairman of Parliamentary Ethics Committee of South Africa. Professor Asmal provided valuable inputs during the seminar, while Mr Bertrand de Speville of the De Speville and Associates shed light and rendered critical assistance in developing policies countering corruption. The co-ordination between the Offices of the Ombudsman and the Auditor General has led to discovery of malpractices, including the Social Security Commission in 2002.

Currently, the Anti-Corruption Commission joined resources with the Women's Action for Development (WAD) in composing a song "*Save our Nation*" that will alert Namibians about the dangers of corruption. The winners won monetary rewards. Since 80 percent of the population are Christians, it is assumed that the song will instil a sense of honesty and hard work among citizens, especially among the youth who are the future leaders. It is, however, worth mentioning that the anti-corruption agencies often fail to conduct their duties due to non-cooperative tendencies from other institutions. In fact, these entities do not have compelling mandates to force other institutions to either avail or provide essential information. The shortage of manpower and financial resources prevailing at other public institutions are contributing factors in this regard.

5.12 PUBLIC ACCESS TO INFORMATION

It is critical to strengthen a culture of openness in public institutions, especially sharing information with media. Some public institutions still regard information as being classified and deny journalists access despite its essential role in exposing corruption. The end result will be a loss of accountability and unavailability of reliable information. The Director of the Anti-Corruption Commission also expressed disappointment in this regard. It was for this reason that he requested the Office of the President to declare all Presidential Commissions of Inquiry as public documents in order to enable the Commission to deal with alleged culprits.

5.13 SALARY STRUCTURE

Poor working conditions and meagre salaries are critical challenges that contribute to loss of integrity and deplorable services. Poor salaries do not motivate public employees to increase productivity or enhance commitment to public service. Public service salaries are not competitive with those of the private sector for similar qualifications and level of competence. Integrity in the public service is therefore lacking which has led to some public officers resorting to corruption to make ends meet. This leads to uncontrollable loss of talents to private sector, thereby leaving sometimes the public service with “*deadwood*”.

5.14 CHECKS AND BALANCES

The creation of the Anti-Corruption entities does not necessarily ensure effectiveness and efficiency. Instead, they serve as instruments for the broader goal of more effective, fair and efficient government. This means their effectiveness and efficiency must be coupled with accountability, transparency and responsiveness of public administrative system. In this sense, the GRN is required to increase mobilisation of civil society in advocacy for transparency and promotion of institutional reforms for effective and efficient public service delivery.

This requires the establishment of internal mechanisms to eliminate corrupt practices within these entities in order to avoid creating loopholes and making them vulnerable to abuse by employed officials. For example, the Office of the Auditor-General is auditing its own books. For transparency and fairness, the GRN should appoint an independent entity to perform this task.

CHAPTER SIX

CONCLUSION AND RECOMMENDATIONS

6.1 CONCLUSION

There are no simple solutions or short cuts in the fight against corruption. Success depends on a holistic approach and tenacious implementation of three important pillars, the establishment of anti-corruption agencies, the general reform of the public sector and the promotion of a strong civil society. To achieve this, the anti-corruption agencies must be well resourced in terms of material and human capital. Adequate resources will strengthen their operations and boost their credibility in the public eyes. This implies that they must be provided with essential equipment such

as office space and items to enable them to carry out their responsibilities without any hindrance.

Since cases require the collection of sufficient evidence to secure successful prosecution, they must be resourced by highly qualified and specialised personnel. Apart from specialised skills, such officials must be motivated through receiving competitive packages. High-level salaries are not only meant to sustain optimal levels of motivation but also for honesty. Due to their accessibility to highly classified information that could be abused for personal gain, it is critical to offer them competitive salaries. Also, they must be authorised to seek highly specialised personnel elsewhere if not found in the country.

To remain effective, they must be also endowed with considerable legal and administrative powers. Despite their investigation mandate, entities must be empowered to prosecute culprits. In the modern world, substantial amounts of money can be transferred within a minute. Speedy action and legislation will be effective to address this. It is important for the GRN, through the Ministry of Finance, to introduce a Financial Intelligence Bill to prevent and combat money laundering. It is also critical to separate the functions of the Auditor General from the existing State Finance Act.

Pertaining to administrative authority, the agencies must be empowered to investigate alleged corrupt practices within both public and private sectors. This implies that all Government institutions and private entities must be obliged to co-

operate and avail required information on time. To achieve this, the entities will need strong support from all stakeholders, including the President. This does not only mean verbal support but a direct line of authority too. However, in the absence of appropriate levels of transparency, the public perception is that anti-corruption agents are merely targeting to net the small fry, while bigger ones will remain untouched. The success of these entities will also depend on co-ordination with other institutions, especially with law enforcement agents and the judiciary. No matter how effective their investigatory capacities, they will achieve very little in the public eyes if they do not have authority to prosecute culprits.

The shortage of magistrates and disappearance of dockets in courts remain matters of grave concern. The need for effective and efficient institution is not only meant for the Police and judiciary alone but includes the public service as well.

Due to scarcity of resources, the creation of many anti-corruption entities becomes questionable. It is perceived by some quarters as the wastage of resources and duplication efforts. Although, the heads of these entities agree that their existence does not affect each other to a great extent, the shortage of human and financial capital remains a challenge. This implies that if the Offices of the Ombudsman and the Anti-Corruption Commission were merged, the GRN could have wisely invested its resources in terms of training and personnel. In other words, joining two budgetary allocations of the two could have achieved desirable results than being the current state of affairs.

Although most incidences of corruption are aggravated by greed rather than need, hungry public servants will succumb to corruption. Due to meagre salaries, officials will fail to carry out their duties in an effective fashion. For example, a constable in the Namibian Police earns N\$33 456 - 54 063 per annum, while a counter-part in the City of Windhoek earns N\$76 788 – 80 628 per year (Kakonda 2006). This disparity de-motivates the majority of public servants and makes them simply remain in service for sake of being employed but not for productivity. Therefore, constant revision of pay policy structures is critical to motivate public servants to prevent them from engaging in corrupt practices.

To keep corruption under control, it is important for top leadership to stay alert about the dangers of corruption. In Namibia, perception differs from one politician to another in this regard. Usually, some refer to incidences of corruption as '*minimal and still under control*', '*red flashing are on*' or '*it was mere flouting of existing rules*'. Regardless of the meaning of these remarks, politicians should lead by example through rendering support, be it moral or material. Failure to do this creates an impression that the establishment of these bodies was only driven by the need to be seen to be '*doing something*' than being the product of a carefully initiated strategy. It is evident that well-placed policies and legislation alone cannot combat corruption, unless they are complemented by determined political leadership.

For entities to win credibility, the public must see them as being serious and autonomous. They should therefore not attempt to cover wide range cases of corruption. They need to identify and concentrate on few selected key areas such as

grand corruption. Grand corruption is the most damaging area in which the beneficiaries are comparatively few but can be disproportionately powerful. Thus, it is crucial to distinguish various types of corruption and recognise that they are not all equally harmful. This fact, however, does not need to be raised in the public. The initiation of clear strategies means developing strategies that will address corruption in the short, medium and long term.

The power of media cannot be over-emphasised. Usually, media are strong tool that can be used to advocate and promote public policy through enlightening the public about the Government's future plans.

They are also destructive if abused to distort and mislead the public. In Namibia, the media enjoy protection and fundamental rights as enshrined in the Constitution. However, they are sometimes perceived as anti-Government whenever they publicly disagree and critic authority. This has led to the banning of buying and advertising in *The Namibian* in 2001 by the GRN. Due to media's potential to unravel corruption, it is obvious that the GRN and media need each other. Therefore, it is critical for them to promote and maintain cordial relations.

In conclusion, misappropriation of public resources causes irreparable damage to Governments in particular and societies in general. To halt this undesirable behaviour, it is critical to strengthen and promote strategies such as the decentralisation of public goods and services, allocation of adequate resources, intensification of anti-corruption campaigns and empowerment of citizens, through

education and training. Any significant effort to combat corruption effectively requires a holistic approach.

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ANNEXURE A

Interviewees

Name	Position
Mr Junias Etuna Kandjeke	Auditor General
Advocate John Walters	Ombudsman
Advocate Paulus Kalomho Noa	Director of the ACC
Member of the Opposition	Member of Parliament
Ms Ingrid Cupido	Director – Ombudsman
Ms Elize Cline	Deputy Director – Ombudsman
Mr Ben Nangombe	Director – Office of the President
Mr Sakeus Shanghala	Former Member of the Presidential Commission of Inquiry in 2004
Mr Mateus Kaholongongo	Special Assistant to the Founding President
Mr Erastus Mwanyangapo	Chief Investigator – Ombudsman
Mr Martin Julius	Investigator – ACC
Superintendent Gerhard Kakonda	Windhoek City Police
Politician	Former SWAPO Member
Member of Opposition Party	Member of Parliament
Natis Official	Administrator

ANNEXURE B
QUESTIONNAIRE

Unstructured

1. Interviewee's personal details such as name, position and work related experience.
2. Interviewee's general understanding of corruption i.e. definition, causes and consequences.

Structured

1. What anti-corruption mechanisms/strategies are within the Office?
2. What were motives for creating such mechanisms/strategies?
3. What are the challenges?
4. How effective are they?
5. How many cases are successfully dealt with?
6. How many cases are still outstanding?
7. What are their limitations?
8. What support do they receive in terms of moral and monetary?
9. How is the co-ordination with similar entities?
10. What type of offences do you deal with?
11. What co-operation does it receive from other public and private institutions?
12. What are economic, political and image impact of corruption?
13. What is the way forward?