



**Report on the  
1<sup>st</sup> Commonwealth Regional Conference for Heads  
of Anti Corruption Agencies in Africa  
Gaborone, May 2011**

**“Developing an Anti Corruption Agenda for Africa”**



## CONTENTS

ACRONYMS .....	5
CHAPTER 1: 1 <sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa .....	7
The Theme of the Conference .....	7
Objectives of the Conference .....	7
Methodological Approach .....	8
Why the Conference .....	8
CHAPTER 2: The Official Forum.....	9
Welcome Remarks .....	9
Opening Statement.....	9
Keynote Address .....	10
Closing Remarks.....	11
The Welcoming Dinner .....	12
CHAPTER 3: The Path to Fighting Corruption .....	13
Approaches to Corruption Control: the Role of Oversight Institutions .....	13
Issues of Ethics and Professional values .....	28
From Silos to Holistic: A Key Strategy for Combating Corruption in the Commonwealth.....	34
From Ambition to Action: Global Progress on Tackling Corruption .....	39
Contemporary Challenges Faced by Anti Corruption Agencies and Good Practices in the Commonwealth.....	47
The Essentials.....	47
Challenges .....	49
Fraud Detection – Research Findings .....	55
CHAPTER 4: Commonwealth Africa Country Status on Anti Corruption .....	61
TANZANIA.....	61
BOTSWANA .....	62
MALAWI .....	63
NAMIBIA.....	65
SOUTH AFRICA .....	66

SIERRA LEONE .....	68
MAURITIUS.....	70
ZAMBIA .....	72
CAMEROON.....	73
LESOTHO .....	74
UGANDA.....	75
NIGERIA.....	77
KENYA.....	80
RWANDA .....	81
MOZAMBIQUE .....	83
SWAZILAND.....	84
GHANA .....	86
CHAPTER 5: The Development of an Anti Corruption Agenda for Africa .....	88
The Implementation Framework for the African Agenda.....	88
Key Points.....	88
Major Targets.....	89
Monitoring .....	89
Measurements .....	89
Publicity.....	90
What can an Association of African ACA’s achieve.....	90
Cross cutting issues Observed: .....	90
Anti-Corruption, its Definition .....	90
Capacity Building.....	91
Specialized Training .....	91
Conclusions .....	92
Election of the chair of the association.....	93
The Responsibilities of the Chair.....	94
Interim Executive Committee .....	94
Host for 2012 .....	95
Statement by Founding Chair: Association of African ACA’s .....	95
CHAPTER 6: COMMUNIQUÉ.....	96

The Gaborone Statement .....	96
1 <sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011 .....	96
Fraud Prevention Check list .....	98
CONFERENCE PROGRAMME .....	100
1 <sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011 .....	100
LIST OF PARTICIPANTS .....	102
1 <sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011 .....	102

## ACRONYMS

AC	ANTI CORRUPTION
ACA	Anti-Corruption Agencies
ACC	Anti-Corruption Commissions
ACTT	Anti Corruption Task Team
ACU	Anti Corruption Unit
AG	Attorney General
AML	
AOA	African Ombudsman Association
AUCAC	African Union Convention against Corruption
AUCAL	African Union Convention Against Corruption
BNF	Botswana National Front
CODESA	Congresses for Democratic South Africa
CoLP	
CRL	Complaints Review Committee
DACC	District Anti Corruption Committee (Lesotho)
DCEC	Directorate on Corruption and Economic Crime
DFID	
DIAAL	Directorate of Internal Audit Systems Lesotho
DPP	Department of Public Prosecution
EAAACA	East African Anti Corruption Authorities
EU	European Union
FRC	Financial reporting Council
GIDD	Governments and Institutional Development Division
IAACA	International Association of Anti Corruption Authorities
ICAC	(Mauritius)
ICCPR	International Covenant on Civil and Political Rights
JPSC	Justice Crime Prevent and Security Cluster
MDG's	Millennium Development Goals
NACP	National Anti Corruption policy
NACS	National Anti Corruption Strategy
NePAD	
NGO	Non Governmental Organisations
NIC	National Integrity Committee
NPA	(SA)
OECD	
PEP	
PPADB	Public procurement and Asset Disposal Board
RISP	Rwanda initiative and Sustainable Development
SAPS	(SA)
StAR	Stolen Asset Recovery
TI	Transparency International

UK	United Kingdom
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
WB/UNODC	

## **CHAPTER 1: 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa**

The 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa was held in Gaborone, Botswana, from 23 to 26 May 2011 at the Phakalane Golf Hotel Resort.

The event was co-sponsored by the Commonwealth Secretariat and the Government of Botswana and supported by other Ministers who were enlisted to provide protocol assistance, staffing the secretariat and other onsite support throughout the event. The event was attended by Executive representatives and Commissioners of Anti Corruption Agencies of Commonwealth African countries, the Director of Commonwealth, the Director of GIDD, The head of the DFID Anti Corruption Team, Experts, Oversight Agencies and the Media; and officiated by His Excellency the President of the Republic of Botswana, the Honourable Acting Minister of Defense, Justice and Security and the Permanent Secretary from the Ministry of Defense, Justice and Security.

The forum allowed for Member countries to share their experiences and lessons learnt and to give an insight in dealing with common issues in their fight against corruption, and encouraged collaboration and coalition of organizations.

The topics were themed towards achievement of the Objectives, these were;

1. Approaches to Corruption Control
2. Issues of Ethics and Professional values
3. From Silos to Holistic: A Key Strategy for Combating Corruption in the Commonwealth
4. From Ambition to Action: Global Progress on Tackling Corruption
5. Contemporary Challenges Faced by Anti Corruption Agencies and Good Practices in the Commonwealth
6. Fraud Detection – Research Findings
7. Country reports – status of the national ACA’s

### **The Theme of the Conference**

**“Developing an Anti-Corruption Agenda for Africa”**

### **Objectives of the Conference**

The conference aimed to;

- Strengthen relations between Anti-Corruption agencies within the Commonwealth
- Assist delegates to acquire a firm grasp of the value added functions of emerging best practices and shared innovations

- Mainstream corruption prevention and control
- Assist delegates to appreciate diversity and commonality of strategies to combat corruption
- Assist delegates to appreciate the level of individual country performance and challenges in dealing with corruption, identify weaknesses and develop SMART country action plans
- Assist with establishing a professional Commonwealth Africa body of Anti corruption practitioners.

### **Methodological Approach**

The conference objectives would be achieved through a combination of presentations, group discussions and networking during and out of sessions. The conference provided a conducive platform for participants to interact and share emerging practices and country innovations in their fight against corruption and the promotion of good governance

### **Why the Conference**

The concept of the meeting originated by Dr. Roger Koranteng Governance Adviser Commonwealth Secretariat, who felt that there was a need for an Association of Anti Corruption agencies in Commonwealth Africa and a forum where all Anti-Corruption Agencies in Africa could exchange ideas, build partnerships, share experiences in order to strengthen and build relationships for a more coordinated common direction to fight Corruption as a collective. The Governance Adviser worked with Mrs. Rose Seretse, the Director, DCEC, Botswana, to develop the idea of having a collaboration, where coalitions can be formed and the Anti-Corruption Agencies can be united to form an African Agenda.

The 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti-Corruption Agencies in Africa is the first of its kind and the goal was that it should come to be held regularly and possibly on a rotational basis between member states with support of the Commonwealth.

## CHAPTER 2: The Official Forum

### Welcome Remarks

**By Director of DCEC, Rose A. Seretse, Director of Directorate on Corruption and Economic Crime (DCEC)**

The conference welcome remarks were made by The Director of DCEC Mrs. Rose Seretse. In her welcome remarks Mrs. Rose N. Seretse noted that corruption has become increasingly sophisticated and organized and requires the anti corruption agencies to keep pace with them. She argued that there was a need for the establishment of an Anti-Corruption body for commonwealth countries in Africa to network. She stated that Botswana's reputation of being amongst the least corrupt countries in Africa was not only due to best practices but to political will and political support.

### Opening Statement

**By Director of Governments and Institutional Development Division, Commonwealth Secretariat, Max Everest Phillips**

The Opening Remarks were made by the Director of Governments and Institutional Development Division of the Commonwealth Secretariat, Mr. Max Everest-Phillips. In his remarks, Mr. Everest-Phillips informed the conference that the Proceedings and the follow up actions decided on would be reported back to the Secretary General of the Commonwealth Secretariat who recognized that Corruption was damaging to sustainable development in member states and to the mandate of promoting shared prosperity, affective democracy and good governance.

Citing President Seretse Khama's remarks made in 1970 "a nation without a past is a lost nation", pointed out that History was of instrumental importance not only to Botswana but to the whole of the Commonwealth whose member countries are spread across every region of the globe with a combined population of 2.13 billion, representing 31 percent of the world's population, and who have a unique association in their collective commitment to the values of democracy, good governance, the rule of law, and respect for human rights is built upon a shared history and tradition as well as a common language; which inform a common concern that improves poverty reduction, gender equality, and tolerance; respect; peace and security and economic growth, the achievements of which the Millennium Development Goals depend.

A central part of the commonwealth's endeavors is to help member countries face up to corruption and tackle its destructive impact. The commonwealth's two main aims are the promotion of effective democratic institutions and the implementation of sustainable development which they believe are intricately connected and an intrinsic core value, instrumental for good governance on which sustainable development depends.

95 percent of the worst economic performers globally in the last 40 years have been in the non-democratic regimes. Despite supposedly successful authoritarian development in some countries, 80 percent of all inter-state conflicts have been instigated by autocracies; and people in low income democracies have a life expectancy of 8 – 12 years longer than those from low income autocracies. Commonwealth member countries are generally doing comparatively better than their global counter

parts; this is believed to be largely due to the shared Commonwealth tradition of democracy, common law and public administration.

Recent assessment of the leadership capabilities of African heads of governments found that eight of the ten top leaders are Commonwealth countries, and none of the 19 commonwealth leaders were rated in the lowest quartile of the 52 African countries assessed. Nine of the ten most peaceful were Commonwealth countries headed by Botswana. Aside from quality leaders, Commonwealth governments are generally more effective and have a more consistent rule of law compared to non commonwealth countries and out of 47 countries in the world classified as not free, only four are Commonwealth countries.

Very few Commonwealth countries are rated by major international development institutions as fragile, and the record of Commonwealth countries with regard to corruption is generally good. Only four of the commonwealth countries appear at the bottom according to Transparency International's corruption perception index, because amongst Commonwealth members, there is no room for complacency when it comes to corruption.

Corruption impoverishes citizens, lowers international investments and national economic growth. 63 percent of the worlds Commonwealth countries developing governments suffer particularly high rates of corruption and more needs to be done to improve the quality of efforts and the fight against corruption in Commonwealth countries for economic growth and political stability.

Fighting corruption in Commonwealth Africa will also help in fighting poverty and make an important contribution for developing and delivering the MDG's, in doing this, the Commonwealth Secretariat to make the vision of international development into reality.

It is Botswana's extraordinary successes in tackling corruption and the resounding rejection by Batswana's of non democratic forms of rule and the belief that there is no corruption in Botswana that makes it fitting that the first Conference for the Commonwealth Heads of Anti-Corruption Agencies in Africa should take place in Botswana.

Many developing African countries whose public sectors are hampered by corruption, poor management and inadequate public services and who make little or no progress towards achievement of the MDG's. It is essential that the Commonwealth facilitates cooperation and building of an Anti-Corruption Agencies' Association in Africa that can ensure an effective public administrative, responsive and effective and efficient public service.

The Commonwealth is ideally placed in its strategic efforts and dedicated to foster genuine partnerships between all member states. Its effectiveness is built upon the "ownership" by its members, and the trust and confidence that member countries have in the Commonwealth Secretariat to working on this important agenda for the Commonwealth countries in Africa.

## **Keynote Address**

**By His Excellency Lt. Gen. Seretse Khama Ian Khama**

The Key note Address was given by the President of the Republic of Botswana, H.E Seretse Khama Ian Khama. He assured the meeting that his attendance was a reflection of his commitment in the fight against corruption as he recognized that to succeed, it not only required political drive from all government departments but also the private sector, and underlined that to win the fight against corruption, an international agenda would need to be developed, coalitions would need to be built and collaborative efforts would be needed from all stakeholders.

## **Closing Remarks**

**By Honorable Edwin Batshu, Acting Minister for Defense, Justice and Security, Botswana.**

In his closing remarks, Hon. Edwin Batshu stated that the issues addressed at the conference were important as corruption has devastating effects on economies and in his opinion, the theme aptly addressed the perspective of collaboration, cooperation, coalition building and partnerships amongst the Anti-Corruption agencies and governments.

Low ratings in the transparency perception index by some countries should not be ignored as Botswana being rated highly did not add value if the majority of African countries were rated at the bottom half of the index on the continent and reiterated that the conference was necessary.

To have the ability to simply call another Anti-Corruption Agency rather than having to follow the legal process would advance Anti-Corruption efforts on the continent; and it was fitting that the conference had addressed issues around networking and discussed strategies on how to work together. He noted that although most of the countries had adopted the three pronged approach of fighting corruption and were diverse in their mandates and powers, where some Anti-Corruption Agencies had prosecutorial powers and did not need the permission from the DPP nor the AG, some reported directly to their Parliaments and others reported directly to their President; whilst some even defended their own budgets in parliaments, and did not need to go through a Minister, their aim was the same; that of fighting corruption and economic crime.

He assured the conference that the Government of Botswana through the DCEC would fully support the efforts and would be learning from this conference to make new approaches to existing strategies.

The communiqué was impressive. He would share the report with government as they had high hopes that in addition to collaboration with African states they wished to take on board other stake holders including NGO's, and give the NGO's a bigger role, as most governments had failed to do, in the fight against corruption.

He firmly believed that government's role should be restricted to the creation of an enabling environment through the promulgation of relevant legislation, development of an Anti Corruption Agenda and availing resources.

He informed the conference that the Government of Botswana had just approved the bill on the protection of whistle blowers, for disclosure of information that related to unlawful, illegal or corrupt practices and provides for protection against victimization of informants.

He went on to thank the Commonwealth Secretariat for enabling the conference and its hosting in Botswana as it gave credence to working as a collective body, and made it possible to interact with countries from outside the Commonwealth who attended, hence opening new partnerships for countries on the African continent and went on to say that more assistance from the Secretariat would be welcome in the form of training and capacity development in order to succeed in delivering the decisions, and looked forward to the countries working together as members of the African continent.

Creating an African body on corruption and related crimes was a welcome development as it ensured they work as a team. The evil called corruption should be fought and the Gaborone Statement would be a stepping stone to unity amongst African countries. He hoped that the francophone countries in attendance would help initiate a partnership amongst other francophone countries for the mutual benefit of all and was confident that the new networks and contacts established as a result of the conference would be used in future operations and urged participants to not only communicate about anti corruption but also about new developments.

Citing a Setswana idiom which translated to mean “unity is strength”, aptly described the efforts of the conference, “to fight corruption as a collective”.

### **The Welcoming Dinner**

A welcoming dinner was organized for all participants on the 23<sup>rd</sup> May 2011. The occasion was graced by Hon. Edwin Batshu, Acting Minister of Defense, Justice and Security. The Permanent Secretary Segwakweng Tsiane, Ministry for Defense, Justice and Security, Botswana, welcomed the participants.

Participants were entertained by Mafitlakgosi Traditional Dancers and the BDF Band.

“Raising the standards of governance is key to a country's economic and political development. Both, however, are compromised by corruption, which distorts the economy, diverting scarce resources from vital services to such activities as repaying debts incurred by corrupt government officials... Corruption restricts investment, holds back economic growth, and undermines programmes designed specifically to aid the poor. Corruption costs the developing world billions of dollars each year, siphoning off scarce resources and diminishes a country's prospects for development. Where external assistance is involved, corruption can quickly devalue the reputation and credibility of governments and can undermine the effectiveness of international development programmes.” *Mr. G. Shabbir Cheema captures*

## CHAPTER 3: The Path to Fighting Corruption

### Approaches to Corruption Control: the Role of Oversight Institutions

By Professor Kwame Frimpong, Dean of GIMPA Law School and former Dean of Faculty of Social Science, University of Botswana

Presenting on the role and capacity of oversight Institutions in strengthening the capacity of public sector institutions, a pragmatic approach to controlling corruption, in order to ensure that corruption does not work, Prof. Frimpong highlighted on Corruption and its consequences, corruption as an International Problem, the efforts and new approaches needed to combat corruption.

Strengthening Democratic Institutions and democratic governance was the key to peace, stability, growth, development and prosperity, and that democratic systems should be transparent and accountable.

The fact that corruption is endemic in the world and seriously undermines development is not in dispute. This is particularly so in the developing countries. Much of the problem is attributable to the absence of proper governance systems.

**Democratic governance holds the key to peace, stability, growth, development and prosperity.**

There is a correlation between democratic system of governance and political and economic development. In a democratic system of governance we have verifiable and credible institutions that are **Transparent** and **Accountable**, and they help in preventing the emergence, nurturing, and sustainability of corruption.

“The challenges facing the anti-corruption movement have changed markedly over the last decade. When Transparency International was formed in 1993, national and international leaders wilfully ignored calls to tackle corruption; it was a challenge even to be heard. Now the body of evidence is too large, and the pervasive impact of corruption recognised as too great, to ignore. In countries rich and poor around the world, corruption ruins lives.”

Frimpong has argued that corruption generally thrives when there are no appropriate mechanisms to detect, prosecute and punish offenders. As long as opportunities exist, corruption will thrive as people take advantage of the existing loopholes. When the legal framework provides the environmental basis for transparency and accountability the opportunities for corrupt practices will be minimised. Unlimited discretionary powers in the hands of bureaucrats are usually the surest way to create avenues for corruption. Procedures should therefore be streamlined and clearly defined.

In order to fight corruption many countries have resorted to the establishment of anti-corruption agencies, but this has not had the desired effect, as the Chief Executive of Transparency International has observed:

### **The Importance of Governance to Countries Economic and Political Development**

#### **Democratic Governance**

Democratic governance is the key to peace, stability, growth, development and prosperity and the Democratic systems should be transparent and accountable

Professor Frimpong stated that legal systems should have frameworks that allow transparency and accountability to minimize opportunities for corruption as the absence of governance allows for corruption, hence the African Union setting itself on the track to develop democratic systems of governance. He stated that mechanisms need to be put in place to ensure that the right type of governments come into place, and to establish, sustain and strengthen the democratic institutions in every country.

“The United Nations Development Programme (UNDP) sees corruption as a problem of poor governance. Good governance is participatory, transparent and accountable. Its social, political and economic priorities are reached by consensus, and the poorest and most vulnerable have their say in matters affecting their well-being and in the allocation of development resources. Bad governance, rife with bribery, corruption and maladministration, has the opposite effect.

*Mr. Shabbir Cheema*

With the coming into existence of the African Union (AU) in 2000, the continent has set itself on the track to achieve democratic system of governance, peace, stability, economic growth and development throughout the African continent. These policies are fully entrenched in the Constitutive Act of the African Union (the AU Constitution) and the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM).

## **Constitutional System of Government**

The Importance of Written Constitution is that the Constitution is supreme under a written constitution but under unwritten constitution, Parliament is supreme. When the constitution is supreme it means that all persons and institutions are subject to the constitution.

### **Hierarchy of the laws**

- The Constitution
- Statutes or Acts of Parliament
- Common Law
- Customary Law

Supremacy principle, it requires written constitution as opposed to unwritten constitution. Two examples referenced were that of Ghana and Uganda.

### **The Role of the Judiciary – Judicial Independence**

Professor Frimpong went on to say that Judicial Review should follow, as governance structures determine the path of Government so that wrong mechanisms are not put in place, the need for legitimate, transparent and accountable governance with internationally acceptable structures would allow all stakeholders to function properly. This would give us advantages by instilling confidence in the population and would remove any inhibition which militates against participation in the development of the nation. When civil society and press operate freely it impacts positively on every aspect of the nation and Private sector confidence is enhanced

### **Supreme Nature of the Constitution**

#### **Authority of a Constitution:**

Most written constitutions will derive their authority from the people. The US Constitution, for example, states in the Preamble:

“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

Ghana example: Article 1(1) provides:

The Sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised in the manner and within the limits laid down in this Constitution

The Preamble to the Constitution started with: **“We the people of Ghana,** and ended with: **Do hereby adopt, enact and give to ourselves this Constitution.”**

This embodies four fundamental issues:

- I. That the Judicial arm of government is the one that settles disputes between the other branches, and by necessary implication, also among all three branches.
- II. It may put limitation on the activities of the other branches of government, by declaring their actions unconstitutional
- III. In the process it allows checks and balances to operate among the branches of government
- IV. The Judiciary is the body entrusted with the responsibility of interpreting the constitution and the laws of the land.

### **Judicial Review**

Historical background: *Marbury v. Madison* 5 U.S. (1 Cranch) 137 (1803), recognised as laying down the foundation for judicial review; the significance of the case:

**Marbury v. Madison** signifies the following important issues in American Constitutional Law system and which has since become the practice in many jurisdictions around the globe.

It was the first time the Supreme Court declared something “**unconstitutional.**” It thereby established the concept of “**judicial review**” in the U.S. – the notion that courts may oversee, scrutinise and nullify the actions of another branch of government. The landmark decision also helped define the “**checks and balances**” of the American form of government.

### **Constitutionalism in Africa**

Adoption of constitutional rule in some African countries

- Ghana - 1957, 1960, 1969, 1979, 1992.
- Uganda - 1962, 1967, 1995.
- Botswana - 1966
- South Africa - 1910, Union of South Africa, 1931, Statute of Westminster, 1961, Republic, 1994, New Democratic Dispensation

### **Constitution and Governance**

In the quotation by the late Justice Amissah, we observe the following about the constitution which raises a number of issues:

“It paints in broad strokes on a large canvass the institutions of the State; allocating powers, defining relations between such institutions and between the institutions and the people themselves.”

1. The establishment of state institutions
2. Allocating powers to those institutions
3. Defining relations between such institutions
4. Defining relations between the institutions and the people themselves

### **All these raise issues of Governance and what it is:**

Governance is defined as the processes, structures and organizational traditions that determine how power is exercised, how stakeholders have their say, how decisions are taken and how decision-makers are held to account.

Governance has also been defined by the United Nations Development Programme (UNDP) as “the exercise of political, economic and administrative authority in the management of a country’s affairs at all levels. Governance comprises the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and obligations” (UNDP 1997a: iv)

The World Bank uses governance “to denote the use of political authority and exercise of control in a society in relation to the management of its resources for social and economic development” (OECD 1995: 14).

From the point of view of the World Bank, governance is seen as:

“The manner in which power is exercised in the management of a country’s economic and social resources for development.”

For the World Bank, “**good governance**” is synonymous with sound management (World Bank, 1992: 1)

Sound governance taken a step further is a subset of governance wherein public resources and problems are managed efficiently and in response to the critical needs of society (UNDP, 1997: 9)

### **Laymans point of view**

Governance refers to the use of institutions, structures, rules and regulations for the operation of a system, and in that sense operates at all levels of society. We have it at State, regional, local council, and town/village levels, International level, Continental level and Institutional level.

### **Governance at state level**

Governance at state level is where we have government versus the governed. It involves all the various role players or what is popularly known as the stakeholders and it involves the collective contributions of all citizens of a given country.

Government is the machine for directing the path of the governance. It is however, the governance structures that determine the path of government. Faulty foundation and structures will affect the way the government functions. Even if the governance structures are sound, government may not necessarily operate within the structures.

All stake holders need to play an active role to ensure that the governance system functions. Civil society, trade unions, the Opposition, The media, all other organs of government, The Chiefs, The Monarchies, where applicable and the Foot Soldiers all play a critical role, one of Transparency, Accountability and Ethical behavior among the role players, tripartite relationships and the Civil Society.

### **Good Governance**

The legitimacy, transparent and accountable nature of how the various role players operate within the governance structures will determine whether it is good or not.

The existence of governance structures does not necessarily translate into “good governance.” It is rather the nature of the operations of all the stakeholders that determines whether we have good governance or not. For there to be good governance we need two major factors:

1. The structures must meet the internationally accepted practice – what is recognized as basic tool or operational system to enable the state to function.
2. All the stakeholders or persons and institutions must operate within those structures.

### **Advantages of good governance**

Through the practice of good governance all the principal actors are able to articulate their views, The independence of the judiciary is respected, The opposition has a role to play, The media operate without any hindrance, Chiefs function within their fields and the citizenry have the freedom to exercise the rights and opportunities necessary for participatory democracy.

The transparent nature of the formulation and implementation of policies instils confidence in the population and removes any inhibition which militates against participation in the development of the nation and Civil Society and the press operate freely without any inhibitions.

The cumulative effect is that all these impact positively on every aspect of the nation and the private sector confidence is equally enhanced.

### **Democratic Governance**

The rationale behind separation of powers is the concept of Separation of Powers as propound by Charles-Louis de Secondat, baron de La Brède et de *Montesquieu* , in his Book, "L'Esprit des Lois" in **1748** – The Spirit of Laws

Montesquieu advocated constitutionalism, the preservation of civil liberties, the abolition of slavery, gradualism, moderation, peace, internationalism, social and economic justice with due respect to national and local tradition. He believed in justice and the rule of law; detested all forms of extremism and put his faith in the balance of power and the division of authority as a weapon against despotic rule by individuals or groups or majorities; and approved of social equality, but not the point which it threatened individual liberty; and out of liberty, but not to the point where it threatened to disrupt orderly government.

### Hybrid system

In democratic governance, separation of powers is important. There exists a system known as the Hybrid System – This is when the members of the Executive are also members of the Legislature; there is no separation of powers. This is most common among the former British colonies: Botswana, Ghana, South Africa and Uganda.

- Botswana: Parliament consists of the President and a National Assembly.
- Ghana: Mixture of Executive and Legislative functions, not full separation of powers: and majority of Ministers of State must come from Parliament, Article 78(1). This, however, diminishes the ability of Parliament to exercise any supervisory role over the Executive.
- Uganda: The **Parliament of Uganda**, comprises: 215 Constituency Representatives, 79 District Woman Representatives, 10 Uganda People's Defense Forces Representatives, 5 Representatives of the Youth, 5 Representatives of Persons with Disabilities, 5 Representatives of Workers, and 13 Ex-officio Members.
- South Africa: Article 42: Parliament is made up of: (a) National Assembly, and (b) National Council of Provinces and between 350 and 400 members of National assembly; basically it is a Federal system of a different nature, as the members of the Provinces are also part of Parliament

### Role of legislature

- Authorization of Government Expenditure
- Receive Auditor-General's report on the state of the public accounts

He wrote: "In republican governments, men are all equal; equal they are also in despotic governments: in the former, because they are everything; in the latter, because they are nothing". *Montesquieu, The Spirit of Laws, Bk. VI, Ch. 2, In his Book, "L'Esprit des Lois" in 1748 – The Spirit of Laws*

- Has the power to appoint a committee to investigate any irregularities in the report.
- Effective utilisation of the role of Finance or Public Accounts Committee

## Finance or Public Accounts Committee

The Finance or Public Accounts Committee of the Parliament or National Assembly can be a very powerful Committee that can control the misuse of funds within government.

This committee discusses the Annual Public Accounts and the Report of the Auditor General every year by examining the Accounting Officers and thereafter reports the results to the National Assembly or Parliament.

To be able to act objectively and effectively it should be chaired by the Opposition.

## The Opposition

An effective opposition is an integral part of any system of true democratic politics. The opposition provides the necessary mouthpiece in parliament to control possible abuses by the government and to compel the government to be focused on national goals instead of partisan interests.

- Example was in the 1990s in Botswana; the opposition was able to compel the government to take some positive steps in the democratic process. An example was the creation of the office of the Independent Electoral Commission. From independence the Office of the President was responsible for the administration of elections. This was seen as lack of independence and transparency in conducting elections.

After complaints from the opposition and civil society an office of the Supervisor of Elections was created and housed away from the Office of the President, but the Opposition saw this as a cosmetic approach and therefore intensified its insistence on the need to create an independent electoral commission.

The leading opposition party, the Botswana National Front, (BNF), even threatened to boycott the 1994 elections, eventually a referendum was held and in 1998 and the office of Independent Electoral commission was established. It is this body that is now responsible for administering elections in the country.

He pointed out that in any government;

- a. **Opposition is important**, so that it may show government its shortcomings.
- b. **Rule of Law**, an operation system that ensures that all subjects are under the control of law and fall under the constitution
- c. **An independent Judiciary** should be universally accepted where all persons shall be equal before the courts and tribunals and the appointed process is ideally independent from the executive and done by an independent body (Judicial Council) where there is security of tenure and remuneration which is guaranteed and charged against an independent fund

- d. **An Independent Electoral Commission** is essential in governance for the choice of rulers and all processes must be transparent and credible. It requires independent structures to oversee the processes

### **The Rule of Law**

At the heart of any the acceptable system of governance is the rule of law

Rule of Law is an operation system or environment that ensures that all subjects or institutions are under the control of law and everyone lives under law. The rule of law is an essential factor for the effective functioning of the society and the economy.

If the rule of law is respected in a country the popular notion of separation of powers is put into practice and a predictable legal environment, with an objective, reliable and independent judiciary will be in operation. Further, the rule of law ensures that all institutions of the nation are subjected to the laws of the country, strict code of conduct, accountability and transparent procedures.

### **The Judiciary**

A Critical element is Independence of the Judiciary. The Concept of “predictable legal environment” hinges largely on the existence and operation of independent judiciary and universally accepted as important bedrock upon which a nation can operate in trust and harmony.

Under the *International Covenant on Civil and Political Rights* ("ICCPR"), (adopted and opened for ratification and accession by General assembly Resolution 2200A (XXI) of 16 December 1966), it came into force on 23 March 1976, in accordance with Article 49. It can be argued that the fundamental rights mentioned therein belong to every human being.

In particular, Article 14.1 provides:

- "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law..."

This must be read in conjunction with Article 10 of the *Universal Declaration of Human Rights* (Adopted and proclaimed by the General Assembly Resolution 217A (III) of 10 December 1948), which reads:

- “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

The independence of the judiciary supports the rule of law, upon which all governance issues hinge and without rule of law the alternative is anarchy.

The rule of law upon which all sectors of society depend for maximum realisation of the fundamental rights of the citizenry will be in serious jeopardy if the independence of the judiciary is not guaranteed.

As the Hon Justice Michael Kirby (1998) sees it:

- “The alternative to the rule of law is the rule of power, which is typically arbitrary, self-interested and subject to influences which may have nothing to do with the applicable law or the factual merits of the dispute. Without the rule of law and the assurance that comes from independent decision-makers, it is obvious that equality before the law will not exist. Uniformity, consistency and certainly in decisions, will be accidental. The achievement of a manifestly disinterested and impartial application of legal rules will not be a feature of such a society.”

*By the Hon Justice Michael Kirby AC CMG, “Independence of the Judiciary - Basic Principle, New Challenges”, address to the International Bar Association Human Rights Institute Conference Hong Kong 12-14 June 1998*

Some basic requirements -

#### Appointment Process:

Ideally this should be done by an independent body, such as the Judicial Council or Judicial Services Commission. In such a case, the Head of State will nominate, but it is the independent body that makes the appointment. It is however, worth noting that we cannot have judiciary that is completely independent from the executive or the legislature. As part of the checks and balances, there should be some form of interdependence among the three branches of government.

The executive may nominate the judges and the legislature may have to vote on them. Similarly, the legislature may have the authority to determine the remuneration of the judiciary.

- a. Articles 144 and 153 of the 1992 Ghana Constitution

What we should avoid is the control of the judiciary by the other branches of government. When that happens then the independence that we are advocating is lost.

The judiciary should have its own internal procedures to regulate the conduct of the members. It is a serious affront to judicial independence for the executive to arrogate to itself the right to regulate how judges carry out their functions

#### Security of Tenure:

Once appointed, judges should enjoy full tenure without fear of being removed arbitrarily at the wishes of the executive or the legislature, except for stated misconduct.

#### Remuneration:

The salary for judges should be guaranteed and charged against independent fund, such as the consolidated fund, if and only if the salary can be altered arbitrarily then it can be used to influence the decisions of the judges and this will undermine the independence of the judiciary that is being advocated for.

This is an important tool in governance structure for the choice of the rulers of any given community. The process must be transparent and credible and would require an independent institution to oversee the electoral process

### **Independent Electoral Commission**

An Independent Electoral Commission is an important tool in governance structure for the choice of the rulers of any given community.

Citing the Ghana example; for the process to be transparent and credible requires an independent institution to oversee the electoral process as provided under Chapter Seven, Representation of the People, and specifically, Articles 43 to 46 of the Electoral Commission Ghana –

- Article 46 makes the office independent:

Except as provided in this Constitution or any other law not inconsistent with this Constitution, in the performance of its functions, the Electoral Commission, shall not be subject to the direction or control of any person or authority

### **Election Process**

The common mistake that is repeated over the continent is that free and fair elections take place only during the day(s) of voting is erroneous.

- Elections are a process, culminating in the voting, which takes place at a later stage. All the stages must have elements of free and fairness.

Even though the 1994 South African elections cannot be said to have been ideal, Frimpong, (1999a) has argued elsewhere that there are some important lessons that we can borrow from them

Citing the South African Example: They set up the following processes:

- (a). the setting up of two Congresses for Democratic South Africa, (CODESAS)
- (b). The Signing of the National Peace Accord through the two Congresses
- (c). the setting-up of the Multi-Party Negotiating Forum of South African example:
  - (d) The adoption of an Interim Constitution
  - (e) Establishment of Independent Electoral Commission

- (f) Establishment of Independent Media Commission

(g) Establishment of Independent Broadcasting Authority

All these measures were to ensure that no one party, or body, had undue advantage in the holding of the elections, to level the playing field.

### **The Role of the Media**

The media is seen as the Fourth Arm of Government, and requires constitutional protection for its freedom to operate.

This is part of the democratic system of government, but in most African countries the media is never free and Journalists are harassed, intimidated, arrested, violently attacked and even killed.

The role of the media in governance is something not to be treated lightly. Media can check corruption through investigative journalism. It is in the interest of all that the media is able to function freely as the independence of the media is crucial for democracy to be sustained.

Laws that seek to restrict the free operation of the media should be avoided. There have been instances where under the pretext of national interest or security in areas such as the Public Service Act or National Security Act, the media itself must play the role of self-censorship and not be involved in sensationalism and activities that tend to defame and libel others and there is a danger where a member of the community is falsely defamed through the media. Nevertheless,

### **The Citizens' Rights**

The free participation of the citizenry in government marks the attainment of the highest form of democracy in any country. It is therefore very important that the civil rights of the populace are protected under the constitution and most constitutions have this provision.

The Botswana Constitution in Article 12(1) protects civil and human rights of the people. It guarantees freedom of movement, association, and religion, the same provision also provides for the peaceful demonstrations by the people.

What must be understood is the fact that fundamental human rights are not a gift or a privilege from any government, these are "inalienable rights" that are part of every human being, amongst which are The freedom of movement and the freedom of association.

There are some instances on the continent where some practices are not consistent with the legal position, for instance, the police tend to insist on the granting of a police permit before peaceful demonstration or a march can be lawful. The insistence by the police that a permit is required before one can engage in peaceful demonstration does run counter to the spirit of the freedom granted under the Constitution and what should be required is the notification of police to ensure that the march or demonstration passes freely.

## **The Role of Civil Society**

Civil Society can play a significant role in the fight against corruption if they are encouraged and supported. It is important that the Public Service is transparent in its relations with the general public and for all public servants to operate under the rule of law by ensuring that the rights of the citizenry are respected as most often, the service is more concerned with its benefits rather than its service to the public. It is mostly within the service that corruption starts. Its image has to change if we want to fight corruption as it distorts its ability to be an oversight body, so care must also be exercised where some NGOs seek to undermine the interest of the nation.

## **Public Service**

Africa cannot boast of a public service that is service delivery-driven. The current practice in Botswana of establishing a unit of DCEC at institutions and offices is therefore a welcome exercise

## **Decentralization**

1. Decentralization is important as a centralized government allows for corruption to occur. This brought emphasis to the importance of separation of powers.
2. Any system of government that is too centralised usually creates avenues for corruption as a result of bureaucratic bottlenecks.
3. It is therefore essential to decentralise the governmental structures to enable the service delivery to reach the citizenry at all levels of society.
4. But that also carries its problems in the area of corruption, as was discovered by DCEC in Botswana.
5. When monitoring and proper supervision is missing then decentralization breeds corruption.

## **Public Prosecutor**

The office of Ombudsman has in modern days become an inseparable institution that complements the other tool of government in the transparent discharge of responsibilities to the citizenry and is popular worldwide. The role that the Ombudsman plays in the area of good governance and transparency provides the citizenry with a weapon of confidence.

Ayeni and Sharma explain:

“The ombudsman reinforces the grievance handling role of the legislature as a central institution of a people-centred government. Equally, it is readily reconcilable with prevailing governmental concerns about administrative reform, including enhanced productivity and value for money... Not only is it by nature cost-effective to manage, but it can also help other governmental institutions to realise agreed standards of public sector management. The ombudsman is used increasingly by countries attracted to recent public sector reforms and so-

called 'new' public management approaches as part of their regulatory regimes to oversee public and private sector service providers.

The ombudsman is uniquely complementary, whether in a political or economic sense, to other accountability institutions. Taken together, therefore, the ombudsman is a distinctive professional and specialised approach to the receipt, handling and resolution of citizen's grievances. It helps society resolve a common problem, albeit differently from others."

Ayeni and Sharma had estimated that by 1999 there were as many as 102 countries that had established the office of Ombudsman at governmental level and that there were at least 366 individual offices world-wide.

It can play a critical role in the fight against corruption and the office has to be enshrined in the protection to ensure security of tenure

### **Prosecution Authority**

We need an independent office for prosecution. The practice of combining the office of Attorney-General with Prosecution Authority should be abolished and the Police must fall under the Prosecution Authority in the area of prosecution. Botswana have successfully done that since 2005 (Constitution (Amendment) Act, 2005 and other African countries are encouraged to follow the Botswana example.

### **Auditor General**

The Office of the Auditor-General is provided under the Constitution for purposes of providing transparent and credible accounting within the public service. It is the Government Auditor whose role to ensure that governmental institutions adhere to strict budgetary principles. It is an important tool that can be utilised effectively to control corruption, provided that the office functions as required by law and recognizing that, the office itself cannot function effectively if it does not have the appropriate support from the Parliament or National Assembly.

### **Procurement**

Procurement is one area that needs closer supervision. Transparency is therefore necessary to ensure that possible abuses and cases of corruption do not arise, and in most cases it is the Central Tender Board operating under the Ministry of Finance, which handles public procurement.

All government procurement must be subjected to tender, even if it is at the district level and note the practice of defence procurement not being subject to the normal tender procedures can be abused for reasons that there is no transparency and accountability in this sector.

### **Declaration of Assets**

It has now become fashionable for public figures to declare their assets. This is absolutely necessary as a means of fighting corruption, the practice is however, not effective and new approaches should be

adopted: such as the establishment of an independent body to whom the assets must be declared and a public office for access to be verified, and the assets should be declared publicly

### **Anti-corruption Agency**

Anticorruption Agencies are mandatory in the fight against corruption; it however requires more effective and innovative approaches.

AC must

- be provided under the constitution, with its independence guaranteed
- report to Parliament of National Assembly,
- have as part of its operations the three pronged approach:  
Education; Investigation and Prosecution; and
- Must have its own prosecution unit.

### **Whistle blowing**

Whistle-blowing has been found to be useful in some jurisdictions in combating corruption, however, its effectiveness depends on the statutory backing in the country, as it can also be dangerous to the one who blows the whistle on the supposed offender.

Apart from providing a weapon to citizens to expose people who indulge in corrupt practices, it is equally important to put limitations on its possible abuse. The fact that some individuals might choose to use it as a weapon against others to destroy them cannot overlook, It is therefore important to make it an offence for anyone knowingly to accuse another falsely.

### **Conclusion and Recommendations**

It is our duty to the poor and vulnerable and the generations yet to be born to recognise the seriousness of corruption in the world, particularly in Africa and put in place effective measures not only to combat corruption, but also to make it disincentive and unpleasant to engage in as a way of eliminating poverty and underdevelopment.

The surest way to achieve this is by putting in place institutions that operate in **transparency** and **accountability**

To succeed in the fight against corruption, political will and commitment on the part of all governments is imperative. Lukewarm attitudes will not help, and at best may create what can be described as **non-accidental encouragement**.

In addition, governments must also be a pace-setter by setting the right example; otherwise its actions may pave the way for more corruption.

Quote by popular Judge, appropriate for all occasions when accountability by government is called upon.

“Decency, security and liberty alike demand that government officials shall be subjected to same rules of conduct that are commands to the citizens. In a government of laws, existence of the government will be imperilled if it fails to observe the laws scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious.”

Justice Brandeis in *Olmstead v United States*:

- Law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means – to declare that the Government may commit crimes in order to secure the conviction of a private criminal, would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.

#### Management of institutions

- No institutions by themselves will be able to fight corruption and still need people to manage the institutions. If the institutions fail then it is because of poor management or mismanagement of those institutions by these people. We therefore must ensure that those in positions are subjected to transparency and accountability and who have a proven track record to carry out this critical mandate.

There is a Need to recognize the seriousness of corruption and to get political will and commitment from the government to fight against corruption and accept that corruption is purely the issue of greed.

#### Discussions and opinions

- Corruption in the media can be fought by creation of an independent body that is credible and that sets up an investigative team to it
- Guaranteeing positions brings up security and allows for proper decisions as opposed to a leader looking out for himself as his job is not guaranteed
- Whistle vs. informant - There is no difference as long as they are protected
- Countries cannot succeed in fighting corruption if political will does not exist
- There is nothing wrong with Anti-Corruption agencies to have their own prosecution
- Law makers should be invited to the next conference in 2012
- There must also be security of tenure for judges and heads of Anti-Corruption agencies, as it already exists in some countries, successfully.

## Issues of Ethics and Professional values

By Dr. Roger Koranteng, Advisor (Governance), GIDD, Commonwealth Secretariat

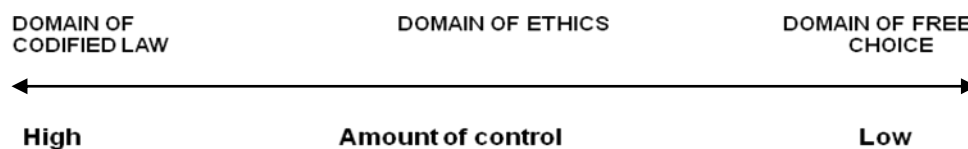
This paper on Ethics and Professional Values, defined ethical behavior and the code of moral and principal values that govern behavior that sets the standards of conduct and decision making. It defined three domains of human action and how ethical dilemmas in decision making can result in possible conflict; describing the factors that affect ethical choices and included a very useful guideline for evaluating values.

## 1. What is ethics

Is the code of moral principles and values that governs the behaviours of a person or group with respect to what is right or wrong and sets standards as to what is good or bad in conduct and decision making. Ethics deals with internal values that are a part of an organisations culture and shapes decisions with respect to the external environment.

An ethical issue is present in a situation when the actions of a person or organization may hurts or benefit others

Fig 1: Three domains of human action



Three categories of human action

Ethics can be more clearly understood when compared with behaviors governed by laws and by free choice.

- a. Domain of codified law –  
Is when values and standards are written into the legal system and is enforceable by law; where people and organizations must behave in a certain way, such as obtaining licenses or paying income / corporate taxes.
- b. Domain of free choice –  
Pertains to behavior about which the law has no say and for which an individual or organization enjoys complete freedom. An individual's choice to religion or an organizations choice of the number of products / services to offer are examples of free choice and where obedience is dictated by oneself.
- c. Domain of ethics –  
This domain has no specific law but has standards of conduct based on shared principals and values about moral conduct that guide the individual or company. Ethics sits between your free choice and the law that should be followed. It is legally and morally acceptable to the larger community.

Many organisations and individuals get into trouble with the simplified view that choices are governed by either law or free choice. It leads people to mistakenly assume that "If it's not illegal, it must be free choice," as if there were no third domain. A better option is to recognize the domain of ethics and accept moral values as a powerful force for good that can regulate behaviours both inside and outside organisations.

As principles of ethics and social responsibility are more widely recognised, organisations can use codes of ethics and their corporate cultures to govern behaviour, thereby eliminating the need for additional laws and avoiding the problems of unfettered choice

## **2. Ethical dilemma**

Because ethical standards are not codified, disagreements and dilemmas about proper behaviour often occur.

- a. Ethical dilemmas arise in situations when each alternative choice or behavior is undesirable because of potentially harmful consequences, where right or wrong is not clearly identifiable.

## **3. Moral agent**

A Moral agent is the individual who must make an ethical choice in an organization. Consider the dilemmas facing moral agents in the following situations:

*A top employee at your small company tells you he needs you to provide him with health insurance and some time off because he has AIDS. You know the employee needs the job as well as the health insurance benefits. Providing health insurance has already stretched the company's finances, and paying this premium will cripple the company financially. Should you accept the request?*

What would you do?

### **Guiding ethical decision making**

Ethical dilemmas may bring about conflict between individuals (giving health cover that may cripple your business or letting your employee die)

Sometimes the ethical dilemma may bring about conflict between 2 groups (closing down a business that is polluting the environment but employs 80 percent of the population)

Managers faced with these kinds of tough ethical choices often benefit from a normative approach - one based on norms and values to guide their decision making and uses several

approaches to describe values for guiding ethical decision making. Five of these that are relevant to managers and that guide decision making are:

1. **Utilitarian approach**– The utilitarian approach holds that moral behaviour produces the greatest good for the greatest number. Under this approach, a decision maker is expected to consider the effect of each decision alternative on all parties and select the one that optimizes the satisfaction for the greatest number of people. Because actual computations can be very complex, simplifying them is considered appropriate. SOME BELIEVE that it does not do justice to the minority
2. **Individualism approach** – The individualism approach contends that acts are moral when they promote the individual's best long-term interests. Individual self direction is paramount, and external forces that restrict self-direction should be severely limited. Individuals calculate the best long-term advantage to themselves as a measure of a decision's goodness. The action that is intended to produce a greater ratio of good to bad for the individual compared with other alternatives is the right one to perform.

In theory, with everyone pursuing self-direction, the greater good is ultimately served because people learn to accommodate each other in their own long-term interest. Individualism is believed to lead to honesty and integrity because that works best in the long run. Lying and cheating for immediate self-interest causes others to lie and cheat in return, thus, individualism ultimately leads to behaviour toward others that fits standards of behaviour people want toward themselves.

3. **moral rights approach** – follow that there are some rights that may not be taken away from individuals, such as the right;
  - i. **Of free consent** - individuals are to be treated only as they knowingly and freely consent to be treated. To make ethical decisions, managers need avoid interfering with fundamental rights of others
  - ii. **To privacy** - Individuals can choose to do as they please away from work and have control of information about their private life, thus, a decision to eavesdrop on employees violates their right to privacy.
  - iii. **To freedom of conscience**- Individuals may refrain from carrying out any order that violates their moral or religious; sexual harassment is unethical because it violates the right to freedom of conscience.
  - iv. **To free speech** - Individuals may criticize truthfully the ethics or legality of actions of others. The right to free speech would support whistleblowers who call attention to illegal or inappropriate-actions within a company.
  - v. **To due process** - Individuals have a right to an impartial hearing and treatment.

- vi. **To life and safety** - Individuals have a right to live without endangerment violation of their health and safety.
  
- 4. **Justice approach** – moral decisions must be based on standards of equity, fairness and impartiality. Three types of justice should be of concern to managers. These include;
  - i. **Distributive justice** – requires that different treatment of people not be based on arbitrary characteristics. Individuals who are similar in respects relevant to a decision should be treated similarly. Thus, men and women should not receive different salaries if they are performing the same job. However, people who differ in a substantive way, such as job skills or job responsibility, can be treated differently in proportion to the differences in skills or responsibility among them. This difference should have a clear relationship to organizational goals and tasks.
  
  - ii. **Procedural justice** - requires that rules be administered fairly. Rules should be clearly stated and be consistently and impartially enforced.
  
  - iii. **Compensatory justice** argues that individuals should be compensated for the cost of their injuries by the party responsible. Moreover, individuals should not be held responsible for matters over which they have no control.

#### **Factors affecting ethical choices**

When managers are accused of lying, cheating, or stealing, the blame is usually placed on the individual or on the company situation. Most people believe that individuals make ethical choices because of individual integrity, which is true, but it is not the whole story.

Ethical or unethical organisation practices usually reflect the values, attitudes, beliefs, and behaviour patterns of the organization culture; thus, ethics is as much an organizational as a personal issue.

Managers bring specific personality and behavioural traits to the job. Personal needs, family influence, and religious background all shape a managers value system. Personality characteristics, such as ego, strength, self-confidence, and a strong sense of independence, may enable managers to make ethical decisions.

One important personal trait is the stage of moral development. Either **pre-conventional level**, **conventional level**, or **High moral development level**

- ii. At the **pre-conventional level** individuals are concerned with external rewards and punishments, and they obey authority to avoid detrimental personal consequences. In an organizational context, this level may be associated with managers who use an autocratic or coercive leadership style, with employees oriented toward accomplishment of specific tasks concerned with external rewards and punishments

- iii. At level two, called the **conventional level**, people learn to conform to the expectations of good behaviour as defined by colleagues, family, friends, and society. Meeting social and interpersonal obligations is important. Work group collaboration is the preferred manner for accomplishment of organizational goals, and managers use a leadership style that encourages interpersonal relationships and cooperation.
- iv. At level three, the high moral development or principled level, individuals are guided by an internal set of values and standards and will even disobey rules or laws that violate these principles. Internal values become more important than the expectations of significant others.

For example, when the USS Indianapolis sank after being torpedoed during World War II, one Navy pilot disobeyed orders and risked his life to save men who were being picked off by sharks. The pilot was operating from the highest level of moral development in attempting the rescue despite a direct order from superiors.

The great majority of managers operate at level one. Not many advance beyond level two and only few reach the level-three stage of moral development.

People at level three are able to act in an independent, ethical manner regardless of expectations from others inside or outside the organization. Managers at level three of moral development will make ethical decisions whatever the organizational consequences for them.

When managers operate from this highest level of moral development, they use transformative or servant leadership, focusing on the needs of followers and encouraging others to think for themselves and to engage in higher levels of moral reasoning. Employees are empowered and given opportunities for constructive participation in governance of the organization.

#### **4. Guidelines For Ethical Decision Making**

When confronted with ethical dilemmas, managers use such criteria as whether they would be proud to tell their parents or grandparents about their decision or whether they could sleep well at night and face themselves in the mirror in the morning.

Managers often rely on their own personal integrity in making ethical decisions. But knowing what to do is not always easy and all managers will almost surely face ethical dilemmas one day;

The following guidelines will help you to evaluate the situation more clearly

- i. Find out if a decision is really what it appears to be
- ii. Find out if your decision is legal or ethical
- iii. Find out how will you feel about your decision
- iv. Find out the position of the people who are opposing the action.
- v. Find out who and how you are benefiting and/or harming
- vi. Would you let others do what you are doing?

- vii. Have you sought the opinions of others?
- viii. Would your actions embarrass you to your family, superiors and others

There exist no correct answers to ethical dilemmas. Consider all factors that may be affected by your actions. Use the complete guidelines contained in the Annexure of this report to guide your decisions

## **Discussions**

### **2 Discussions and Opinions**

- Participants were on the opinion that ethics should fall outside the domain of free choice.
- The best way to instill the message in the mind of youth, is to recognize that all decisions boil down to the individual, so education should start when they are still young and ethical values should become part of their academic education
- The involvement of churches in Anti Corruption initiatives is an important tool
- The starting point to institute ethical values in academics should be through the constitution and by using a consultative approach

## **From Silos to Holistic: A Key Strategy for Combating Corruption in the Commonwealth**

**By Dr. Roger Koranteng, Advisor (Governance), GIDD, Commonwealth Secretariat, UK.**

This paper discussed the roles of development partners, suggested remedies for prevention of corruption that can be adopted by governments and made policy recommendations in order to mainstream strategies for a more coordinated AC policy to ease collaboration within the Commonwealth countries and take a holistic approach to fighting corruption.

He acknowledged that many nations around the globe have become conscious of the evil effects of corruption, that fighting corruption has become a worldwide concern particularly in the developing world and the fact that national governments, international agencies and non-governmental organisations have reoccupied themselves with the effort to combat corruption and pointed out that Anti-corruption had thus, become a requirement for developmental assistance which is tied to concrete efforts to combat corruption, in particular, the establishment of anti-corruption agencies.

### **Public Institutions and the Role of development Partners**

Every country faces the challenges and risks associated with the phenomenon of corruption.

The ways in which corruption creeps into and reproduces itself in a given society and political system varies widely, as does the ways in which governments choose to deal with corruption. In most countries anti-corruption strategies have not been successful for a variety of reasons, amongst which the following merit special attention:

- ▶ The **high-level political will** which often gave birth to anti-corruption strategies, could not be maintained throughout the whole governmental cycle, and in some instances, could not continue into the terms of new governments.
- ▶ **The coordinating agencies often lack authority:** The public agencies charged with the coordination and monitoring of anti-corruption strategies usually do not have the authority, political backing and capacity to encourage or compel powerful line ministries to implement envisioned measures and to report on progress.
- ▶ **Public institutions** that have to help implement anti-corruption measures do not have the required capacities to integrate these measures into their daily business operations, and anti-corruption lead agencies often lacked the capacity to remedy this situation.
- ▶ **The role of development partners** has been problematic: Although important support is provided, development partners often fail to see the holistic picture in the fight against corruption and tend to support one institution in the corruption fight to the exclusion of others thereby perpetuating the silo approach in dealing with corruption.

### Paper Tigers

Roles and responsibilities of stakeholder institutions although to some extent defined in most anti-corruption policies and strategies do not take place in practice.

- ▶ Coordination is generally weak, irregular or non-existent and institutions tasked to perform this function often do not take a proactive approach.

### Principal Remedies in the Prevention Of Corruption

The principal remedies in the prevention of corruption that have been tried and used in several Commonwealth countries include the following:

- **Commission of Inquiry** –and roles are often set up, but this is where it ends.
- **Purges and wars against indiscipline** – particularly military regimes, but end up being corrupt
- **Codes of ethics of public officers** – Is often there to satisfy a donor requirement and is not followed at all times
- **A freer press** – which is helpful as it puts heat on senior politicians, but also allows for press tyranny and therefore may destroy the state by oppositions, and be used to character assassinate people.
- **Tougher laws and enforcement** – only few countries can sustain this and often enforcers of the law are not interested and turn to corrupt ways themselves.
- **Setting up Anti-Corruption Agency's** – most of the agencies were set up to satisfy donor requirements and not because the countries believe in the institutions, themselves.
- **Systematic structural and policy changes** – otherwise known as reforms, these capacitate and make the agencies effective.
- **Political commitment and leadership** – if this exists in practice, it helps build Anti Corruption practices

- **Prioritize corruption as top priority crime, zero tolerance for corruption.** But this fight is not sustained in most countries. If you fight it, it fights back, as you are fighting against powerful and resourceful individuals, unless you have political will and support
- **A Holistic Approach Involving Inter-Agency Coordination and Collaboration** – this is being used by Commonwealth where they recognize that this is not a one-man’s-fight, and they work together.

### **Holistic Approach**

Commonwealth recognizes that Anti-Corruption measures need to be embedded in coordinated and collaborative policies instead of being carried out in isolation or on an ad hoc manner. This system is not linear with static goals, where technocrats have the control to achieve predicted or stated outcomes, it is complex as it cuts across different sectors and multiple institutions of the governance system where policies are usually created by a variety of actors with multiple, different, conflicting and at times changing political objectives that need harmonization to sustain the fight against corruption practices in a country.

It must also be recognised that national anti-corruption policies face the challenge not only of building bridges between the realms of corruption prevention and law enforcement, but also of linking them adequately to policies of other oversight institutions and reforms aimed at strengthening a country's governance systems.

Commonwealth countries recognise the need to build high-level political agreements and achieve a national consensus in order to develop a strategic vision about how to fight corruption. The challenge lies specifically in making an anti-corruption policy framework "strategic" rather than elaborating long wish lists.

Pertinent questions for member countries to consider when they set out to design their anti-corruption policy framework:

- ▶ Is a single anti-corruption strategy feasible and desirable, or should an alternative approach for a coordinated policy to be chosen? What conditions influence the choice?
- ▶ Would the integration of an explicit anti-corruption dimension into government core policies and reforms be a viable option?
- ▶ What kind of institutional arrangement for implementation and coordination is necessary for the approach chosen?
- ▶ What kind of political agreement is needed for the chosen option(s)?
- ▶ How can anti-corruption issues, be turned into national policies that ideally survive more than one government cycle?

### **Policy Recommendations**

Fighting corruption directly by using a single anti-corruption agency may not be the most suitable approach in all contexts. An approach that coordinates and collaborates widely among governance and oversight institutions might be more promising.

- ▶ Commonwealth member countries should consider formulating holistic anti-corruption approaches that promote an open and transparent collaboration among democratic institutions and with non-state actors.

### **Mainstreaming AC Strategies**

Development partners need to make every effort to strengthen the links between anti-corruption and governance reforms. This also entails overcoming certain "silo" visions that continue to persist within national anti-corruption approaches.

- ▶ Integrating anti-corruption components into core reforms is the key to mainstreaming anti-corruption strategies into public administration.

### **High level political Authority**

- ▶ Overall responsibility for coordination and oversight needs to be assigned to a high-level political authority which has the political mandate and support with the requisite political leverage to compel powerful line ministries to follow through on their own commitments regarding good administration and anti-corruptions.

But this laudable approach could easily be made ineffective by selecting units at the president office with little power or visibility as such units at the president's office tend to have a relatively subordinate rank and insufficient authority to deal with powerful line ministries and other public agencies.

### **Coordination Mandate**

- ▶ Such a coordination mandate could be assigned to an important cabinet minister, a lead figure in the president's office or a similarly high-level authority.
- ▶ Anti-corruption bodies, if already in existence could be in a good position to facilitate the coordination as long as they can operate in tandem with the aforementioned top-level political authorities.

### **Inter-agency Coordination Body**

- ▶ There can also be the creation of an inter-agency coordination body under the leadership of presidency coordinated by anti-corruption agency that aims at creating a forum for discussion, harmonisation and synergy.

However, it should be noted that institutional arrangements to coordinate and oversee implementation of anti-corruption initiatives are often ill-conceived from the start.

### **Lack of Authority, leadership and political backing**

Some anti-corruption agencies usually do not have the authority, leadership and political backing to compel powerful line ministries to comply with anti-corruption measures. Often they face difficulties in demanding compliance with minimal monitoring requirements.

- ▶ The presence of a high-level anti-corruption or pro-integrity policy coordinator located close to the president to give anti-corruption policies more visibility and connect the technocratic with the political level is strongly recommended.

## **Conclusion**

Tackling corruption and promoting good governance cannot be externally imposed: they must be internally driven, championed and owned and based on the specific concerns and circumstances of each country. National anti-corruption strategies need to be comprehensive in bringing about transparency and accountability in all sectors by empowering and strengthening all key institutions involved in ensuring good governance, and require strong political will at the highest level of governments if they are to succeed.

Political will is needed to move from intent to action in addressing corruption and ensuring good administration.

## **Discussions and opinions**

Participants remarked that;

- Although all countries developed ACA's as a donor requirement, they were relevant and should not be abolished and they should take a lead role in using them and as they cannot do it alone, there is need to collaborate with governance and other institutions and media, to use the holistic approach.
- Whilst it is helpful to have the highest political authority supporting AC policies, the ACA's must be careful that when a person close to the president is challenged, loopholes cannot be found to stifle AC resources and render the efforts futile.
- It is essential to recognize that justice delayed is justice denied; the Judiciary are the ones who bring justice, and all stakeholders must be involved in the inter-agency coordination to curb corruption so the judiciary is the key part in inter-agency coordination.
- Donor agencies seem to be a part of the problem, especially when it concerns multinationals, however, the intention of donor agencies is not to be part of the problem but to support the cause, but that can create a problem, because when an economy is messed up, donors come and dictate how their funds should be used and to avoid when their efforts backfiring they demand that countries fix their economy first. At times, during negotiations, countries do not engage with donors properly, and so are unaware of what they are getting themselves into.
- The citizen plays a vital part in the fight against corruption, through public education, behavioral change and zero tolerance by the communities

- It is important in the eyes of the public that ACA's are seen to be bringing down high profile convicts, and that the ACA's need the assistance of the courts for the petty corruption case, political will for the Grand corruption cases to do so, noting that if cases are properly investigated, then it becomes difficult to dismiss. It would also help to have specialized courts built for every sector.

## **From Ambition to Action: Global Progress on Tackling Corruption**

**By Phil Mason, Head, DFID Anti Corruption Team**

The paper put the global efforts in combating corruption into perspective from DFID's point of view as a donor, as well as informed on the progress and direction of efforts over the last few years in Anti-Corruption worldwide as the impact of anti corruption is now clearer and there is a consensus that it is negative on investment, on growth, on business and on the poor; and emphasized how critically important it is to tackle illicit flows. The presentation discussed lessons learnt and changes in the global framework; how the ACA's could help themselves and each other as a Commonwealth family in view of the past decade which has seen an unprecedented openness about talking and dealing with corruption, and identified the unique opportunity for the Heads of the Commonwealth African Countries to review their position as a collective and address what they need to fight corruption.

### **A Decade of Developments**

At the first UN Convention against Corruption which was held in Vienna in 2001, South Africa in an unprecedented presentation clarified Asset Recovery. At the time, no one knew what it was; Asset Recovery has since been adopted by, and is now a fundamental part of the UN Convention, attesting to how an issue or a subject can be driven forward by the interests of developing countries who are demanding that the richer countries, give their money back; in addition, citizens from developing countries are demanding that their political leaders demonstrate that public funds are not wasted through corruption.

Information Technology has played a huge part in opening opportunities for disguising corruption worldwide, the numbers mask and diminish the amount of aid that donors give in development assistance; citing an example of NePAD; who, as part of the development of Africa continental process needed \$50 b annually to develop Africa; illicit funds demonstrated that \$25 b dollars were sitting in hot money and criminal money in South Africa alone; tapping into these funds would provide for nearly half of what NePAD said was needed for development, furthermore, It was established that it would take the money launderers 36 hours to consume DFIDs' annual budget indicating that the scale of the illicit flows that that are being dealt with offers huge prizes to be gained.

Since the first AC meeting in 2001 there has been consensus and not confrontation; evolving from a time where asset recovery was not understood to now where it is a fundamental part of the process.

Phil Mason emphasized that “One cannot tackle corruption just by tackling corruption only”; the road to corruption is a symptom of failure; and not a question of morality or culture but weak institutional systems; therefore the preventative aspects of what is done is as important as the enforcement, and a balanced dealing with systems of governments is as important as punishing bad behaviors. There is need for a review of the agendas from an institutional dimension and for a broader institutional approach measure that recognizes a failed institution of governance.

UNCAC was initially to be a law enforcement convention. DFID’s representations in the negotiations in Vienna got the development perspective into the chapter of prevention; carefully balancing the equation for DFID about what matters in corruption.

Political commitment from the top can make or break the success of AC Commissions and the Anti-Corruption struggle. AC’s might have intent from their political leaders, a declaration of commitment and statements of intent; however, when difficult decisions have to be made and Acts are required, and commitment to actions are required, it becomes difficult to get, but Political leaders are crucial and the political commitment is needed. Initiating the AC drive is the difficult part.

Countries should recognize the different profiles of corruption and response on corruption at different moments and times that every country has. These are opportunities that are available, and the different individual posts where progress can be made, which may not necessarily exist in another place or time, and it is this flexibility and the response to this AC agenda that must be kept in mind.

### **Lessons learnt;**

Corruption is a two way street. In the 2000 AC Agenda, DFID was told that until the UK took responsibility for the British companies who were going abroad and bribing for business and British banks who were taking money from developing countries; DFID would not have an equal dialogue about where the responsibility lay.

- There was a need to reach a common consensus at all levels -British ministers now see that it matters to development to be on the supply side,
- DFID spend a lot of time talking to its domestic department, its trade ministry and its treasury, about taxing some of these issues.
- DFID are aware that the poor bear the biggest burden and this motivated DFID to fund things
- Recognizing that money that leaves a developing country and sits in Switzerland or in Guernsey or other place is money derived from poor people, also motivated British Ministers
- And added to their interest, was the economic crisis and the need for demonstrating value for money for the aid that is actually going to developing countries.

It takes time – AC work is a struggle and almost a generational effort which involves changing mindsets of the youth and the behavior patterns that they see around them; it can take a generation in many places to see those changes through and DFID have to come up with additional solutions as to what to

do in the intermediate time and strategies to win, which contribute towards that long term strategy, in the short term, which can also take time.

### **How have we changed?**

Four principle areas that DFID have advanced in enormously and a number of changes which DFID have seen in the international arena over the past 10 years.

- Increased consensus on the damage corruption causes

There is a general consensus that corruption is on the whole negative towards development and the social stability and social fabric. In the 80's and 90's there was a division amongst the colonists, did as to whether the British system stops development or actually greases the wheels of development, and there are still some examples in Asia who argue that corruption and development go hand in hand.

Further, there is a general consensus in particular that the work that the World Bank has done, is very much a deterrent to inward investment and stability. Some of the events that are happening in Northern Africa show that the people are really angry about deeply entrenched corruption that was at the heart of their system and we do not argue about the knowledge any more to the extent that we did.

- amongst things that changed the UK was not the increased pressure from the NGO's in the mid 90's, but when Transparency International (TI) knocked on the British government's door and their response to them; whenever government said that an issue was too difficult to deal with, TI came up with a solution, they produced a source book and models on how to do things and when government said that it was too difficult to do they gave them an example on how it was done, responding to the cases, not allowing people to get off the hook and coming up with solutions, challenging the orthodoxy, and applying to cases.
- There was a rise in confidence as people became more aware
- The public and media stopped tolerating the sense of impunity – resulting in the increase of information flows, awareness and non tolerance.

**The Consequences of corruption can often dwarf aid volumes.** In 2000, there were huge deficiencies in the framework; a conceptual lack of consensus about what the issues were and where the responsibility lay, a very weak domestic framework and internationally, the World Bank and IMF were not prepared to talk about corruption.

Ten years on the G 20 have developed an Anti-Corruption group who are working on 11 work streams that outlines the role of the ACA's and recognizes that this is vital for the fight Against Corruption.

There is now increasing interests in the UK and the US models such as muzzle sanctions, visa bans and travel bans, to disrupt and tackle the illicit flows and enable actions to stop people leaving their jurisdiction. All G 20 countries will have dedicated specialist asset recovery teams in their countries to

help with requests from other countries to deal with such activities. The G 20 is the biggest foreign organ driving the global agenda is the forefront of some of issues to deal with.

The framework proposed by DFID gave rise to a consensus by UNCAC which could be used to operationalize had raised the following three questions that needed to be dealt with;

- *What constituted corruption – cultural practices*
- *Whether corruption was damaging –*
- *Who was responsible – weak developing countries / predatory developed*
- *Weak international architecture for :*

The arguments were about the definition of corruption; with the British being accused of imposing their own country morals on the Commonwealth countries, passing judgment on those countries, and questioning if corruption was damaging and who was responsible have been defined thus;

- **What constitutes corruption?**

Cultural practices; in the UN Convention there is a definition of corruption, what it sets out in its activities as what the countries should comply with is: the countries should effectively define what corruption means and what they will collectively agree as practices that will now be regarded as corruption.

- **Whether corruption was damaging?**

170 countries have signed a consensus that they regard corruption as damaging impact on development and social fabric

- **Who is responsible?**

Weak developed countries and predatory developed countries that permit money laundering and bribery whilst imposing the obligation on prevention and other practices on developing countries

**Weak international architecture:**

- *Legal co-operation on stolen assets*
- *Safe havens, secrecy, for stolen assets*

A host of Institutions in the illicit flows arena have grown in the past four years, some of them within the African countries, who are or may be working with organizations such as the International Centre of Asset Recovery working in Kenya and Uganda for example; these organizations provide practical assistance in dealing with the action on fighting corruption whilst the World Bank and DFID, through global trust funds help fund countries to work on financial flows

Amongst the various points made about developed countries, businesses and the banks, a critical point was raised, that the British had a weak system dealing with asset flows such as in the case of the CIAA, the anti corruption agency in Katmandu, who, as soon as they came across a case where money had left and gone into India, would give up as they felt that there was no use in pursuing it further as they would

never get any cooperation from India, they didn't know how to ask for assistance beyond their jurisdiction, at the time, and that the central system was not very friendly for mutual assistance and international exchange; although it is much stronger now there are still safe havens and tax havens that need dealing with on the International side.

On the domestic side –

- The Anti-Corruption and bribery legislation was dated from 1916.
- There has never been prosecution in the UK for international bribery, and which was interpreted that it meant that the UK had the perfect deterrent, DFID disagreed. The bribery legislation was finally taken onto the books in 2010, and will come to force on 1<sup>st</sup> July, 2011, and is now being regarded as the state-of-the-art Anti Bribery Legislation and a huge step forwards for the UK.
- Bribery in some respects, as long as it is declared to tax commission would actually be considered as a legitimate business expense

### **International Conceptual and Operational framework**

Before 2001, The world bank would not talk about corruption, it was just too critical for them and the IMF would not talk about corruption because it was against their mandate to deal with countries which relied on money laundering for its economy as it destabilized the financial system which was against the mandate of the IMF and they were not interested in money laundering. It was not until 9 11 that these organizations accepted that money laundering can be hugely destabilizing to a countries' economy and came on board.

### **Domestic Legal Frameworks**

- *Criminalisation of bribery overseas and very little interest by law enforcement*
- *Bribes are tax-deductible*

The donors came together and reviewed the donor practices and principles, successfully negotiating a requirement for donors, as part of their mandate, to think domestically to get an equal balance, which is vital for donor agencies around the world. There are a number of institutions who will help, as organizations, to help deal with some of the illicit flow issues, something that is already being done in the UK.

### **How We Have Changed**

UNCAC – review mechanisms negotiated in 2001-2003 and in force since 14 December 2005 are now operating;

### ***Anti-Money Laundering / Asset Recovery***

- ***Stolen Asset Recovery Initiative (StAR) (WB/UNODC) (2007)***
- ***International Centre for Asset Recovery (ICAR) (2006)***
- ***IMF Trust Fund / World Bank AML teams (2009)***
- ***FATF – return of the blacklist(s)***

## **OECD / DAC**

- **Donor anti-corruption principles (2006)**
  - *fit local vision; donor agencies focus on supply-side; marshal evidence & measure progress*
- **Agenda for Collective Action (2007); joint assessments; greater in-country co-ordination; common responses**

G20 AC working group – 11 work streams will have special Asset recovery teams that will help other countries recover stolen assets;

- **Ratifying and implementing UNCAC**
- **Criminalizing foreign bribery**
- **Anti-money laundering**
- **Denial of entry of corrupt persons**
- **International co-operation**
- **Asset recovery**
- **Whistleblowers**
- **Anti-Corruption Bodies**
- **Public sector integrity**
- **Ethics and integrity in international organisations**
- **Public-private partnerships**

## **The Way Forward**

Use the UNCAC framework as a platform for collective action such as the range of institutions who are offering practical help for illicit flows for example. UNCAC framework allows for open discussions about corruption issues giving a very clear sense of what the agenda looks like; and that it not only covers reinforcement, but, prevention; criminalization; international cooperation; and specifically asset recovery as a separate chapter.

## **Review mechanism – opportunity for government / donor collective action**

Use the Review mechanisms as they provide an opportunity to demonstrate the technical needs. This is the process whereby the state of affairs in a country can be laid out for everybody to see, and donors can pick up the responsibility of improving systems where the systems need improving. The UK will be reviewed 2012. The civic awareness and social engagement angles are covered in this prevention chapter.

## **Use the Commonwealth**

A Commonwealth network will help by drawing on the common legal heritage by sharing the concepts, approaches to overcoming obstacles, and the practical experiences sharing through twinning and

mentoring, as all the African Commonwealth countries live with a common law they have a collective added value.

The Commonwealth are particularly well placed for effective collaboration with UK law enforcement through the Secretariat which is an effective mechanism; possibly, a more structured pooling of expertise might be a way forward, as is the case in the Caribbean where jurisdictions are too small to be able have the specialist skills that each of them need to fulfill the investigations, for example in forensic investigation, with the more complex type skills, where there is a role for the Commonwealth Secretariat to provide a unified pooled team of experts, to countries who cannot afford them across the entire year and only need them for two or three weeks in particular cases.

The Commonwealth can help each other in learning from the UNCAC peer reviews

- Development effective risk – impacts investor confidence and growth. Political elites illicitly send US\$20-28bn out of Africa each year, and this impacts on investor confidence / growth
- Reputational risk – The stereotype of the corrupt dictator, 74 percent of UK public believe aid is wasted through corruption

### **The UK response to PEP Money laundering and International bribery**

- DFID is funding 20 investigators in the Metropolitan Police & City of London Police (since 2006)
- Investigations in Africa and Asia by Metropolitan Police Unit
- 25 investigations are currently ongoing with the CoLP
- 50+ arrests, 12 convictions (8 PEP/AML; 4 for bribery):
- £160m+ of assets frozen in UK
- £20m returned

in 2006, aid funds were dedicated to law enforcement units working with the Metropolitan Police. This is **a unique Development Agency approach** because UK based aid funds are being used for this project; consisting of 12 officers based in the UK dedicated to tracking illicit flows coming into the UK. This is critical for developing countries and DFID because if DFID is funding 20 investigators in Metropolitan Police and City of London, this unique approach justified using aid funds for this activity.

They have been working with Nigeria and have had some prosecutions in the UK courts, in Kenya; a former ex government official has been extradited to face trial after his associates were prosecuted in the UK. the team is available to the African Commonwealth countries to use and contact, and work with where there is a suspicion about money flowing into the UK, or the property or liquid assets in London, they team will work to seize those assets and return them to your country.

The city of London is looking into allegations of bribery by British companies overseas and they are willing to work with to investigate and prosecute corruption and bribery cases by UK companies. In most of these cases they require cooperation with the jurisdiction because of evidentiary needs. The team only needs an email to start cooperating, and are a phone call away from starting work. No formal NLA request is required.

STAR, The world bank's initiative on money laundering system has just done a review on performance of illicit money flows from the UK's experience there has been a high number of very successful engagements and other jurisdictions about tracing money back. None of them started from a formal NLA request and they all began from correspondence, informal requests and this is key.

Anti – Corruption Agencies – Model and Reality

**The theory says key factors for success are:**

- Independence, operational and legal
- Adequate and sustained resources (both financial and human capital)
- Strong political support

**Reality has more often been:**

- Interference; lack of clarity on mandate / overlapping responsibilities
- Resources inadequate, and variable
- Political masters indifferent, or obstructive

CONTACTS:

***Proceeds of Crime Unit, Metropolitan Police***

**(PEPs, AML and asset recovery)**

**[Paul.whatmore@met.pnn.police.uk](mailto:Paul.whatmore@met.pnn.police.uk)**

**+44 (0) 20 7230 1324**

***Overseas Anti-Corruption Unit, City of London Police (Bribery)***

**[Roger.cook@city-of-london.pnn.police.uk](mailto:Roger.cook@city-of-london.pnn.police.uk)**

**+44 (0) 20 7601 6934**

## **Discussions and Opinions**

There was suspicion of corruption in a certain case involving the ATC but there was no proof. However, a deal was made for the settlement, that the money once returned, be used in the education sector of Tanzania, however, because the case was never brought to the court and settlement agreed on out of court; and the judge would not like the fact that decisions are made for him, the case has not been closed and consequently the moneys are withheld.

Britain has been accused of dealing itself out in issues of corruption by demanding outwardly that other countries establish ACA's all around the world yet there are non within Britain itself, however, the corruption in the UK happens mainly below the radar in the private sector and these cases are not as

serious as they are in other countries, and the UK have made a lot of progress in this regard in the last decade.

Transparency has been a long standing debate for over one-hundred years in the UK and is still ongoing.

## **Contemporary Challenges Faced by Anti Corruption Agencies and Good Practices in the Commonwealth**

**By Bertrand de Speville, Anti Corruption and Governance Consultant, UK**

This paper discussed the status of Anti-Corruption efforts worldwide, it took the delegates through 7 essential areas that ACA's need, in order to function successfully and achieve their goals, the main Challenges faced by ACA's and approaches to overcome them and recommended Good practices that should be adopted by ACA's in order to ensure that they succeed in their fight against corruption.

In spite of over 20 years of focused attention on corruption, millions of dollars and a myriad of experts dispensed to fight corruption on the developing and transitional countries by the international community there is no real evidence that the efforts have paid off, and in fact for the 16 years that the Transparency International has tracked perceptible changes, on the CPI shows that in Africa alone, of the forty-nine (49) countries, only Madagascar and Nigeria had improved, marginally and of the twenty sub-Saharan countries who are members of the Commonwealth, only one had improved, two had declined and seventeen were flat lining.

Worldwide, since 1995, of the 183 countries measured, 10 percent were improving, 10 percent have declined and 80 percent had no improvement.

He hypothesized that in the 2010 research, it was likely that the reason only 45 countries worldwide scored better than 5, of which only 2 were in sub-Saharan Africa, and these were Botswana and Madagascar; was either that the advice by the donor communities was not good or had not been headed. As the fault did not lie with the countries themselves, it left the quality of advice which the countries have no option but to accept when it is given as a condition for financial help; Posing the question; is it possible that donor community's advice is misguided?

As the seven essentials were listed and explained; delegates were asked to consider them in the context of their individual countries and asked to decide which of the listed points required further elaboration stating that if any one of these are neglected or forgotten, it may lead to failure.

### **The Essentials**

- 1. Political will**
- 2. Our values in the law**
- 3. A national anticorruption strategy**

4. **Its coordinated implementation**
5. **Public support**
6. **Resources**
7. **Endurance**

**Values in the law** – referred mainly to bribery. Our penal codes define our most basic community values, the ones concerned with criminality, murder, rape, theft, (bribery) included is bribery, which has been regarded as a serious offence and thus, should be clearly stated in the law.

**A National Anti-Corruption Strategy** – Agencies should have a simple and straight forward Anti-Corruption strategy that comprises three elements;

- i. **Enforcement**, through upholding our values
- ii. **Prevention in daily affairs**, and examination of our systems and procedures by which we organize our daily affairs, and
- iii. **Educating the public**; by creating awareness and making people realize the importance of their role in fighting corruption. Education of the community will let people know not only that corruption is a bad thing, but that they too have active part to play; the immediate short term of the education policy is for people to come forward and report corruption. Educating the public will ensure that people are at ease coming forward with information which is needed.

**The coordinated implementation of the three pronged strategy** - Findings suggest that most countries agree that there is a need for a body to coordinate the three elements. Countries have decided for themselves having looked around the world and seeing what is working, rationalized if the three elements are to be coordinated closely that they need one body to do it. And no alternative seems to have worked so far, not even macro governance reforms has had any effect.

**Public Support** – Corruption cannot be overcome unless public support is developed and maintained. Agencies must recognize that Public support is as fragile commodity, as fragile as political will and can be lost overnight. Public attitudes must be converted to support AC efforts.

**Resources** – is a common predicament in most countries.

**Endurance / Pain** – It is vital that the fight against corruption should find ways of assuaging the pain that is inevitable in uprooting this ailment. AC's must be prepared to run the course and be aware that it cannot be achieved over night, though it can be achieved within one generation (20 years). There have been cases where a country that regarded itself as beyond hope and resigned to live with corruption in its daily life can change its attitude to one of intolerance, no longer wanting to put up with this scourge on a daily basis and fight against it as in the case of Singapore and Hong Kong.

## Challenges

- Investigating policy
- Lack of resources
- Mandate of the anticorruption agency
- Minimum penalties
- Justice delayed
- Declaration of assets

### 1. Investigation Policy

One of the main reasons AC efforts fail is because of the AC policies adopted by the agency. The policy should be that; all allegations that are brought forward and capable of investigation should be investigated. This policy is crucial to the success of ACA's and linked to public support, which is essential. If informants are treated as insignificant and dismissed, they will never come back. Investigations of small acts of corruption have often led to a bigger problem that would not have been detected otherwise.

ACA's should not be picking and choosing what to and not to investigate, otherwise the community will think they are doing so for the wrong reasons, or for political or corrupt reasons and will risk losing public trust, neither should they show the public that some corruption cases are more important than others as there is no room for double standards

AC's must not forget that many small acts of corruption are as harmful to the well being of the country, as a single large corruption and can have disastrous consequences, especially in areas of security or public health.

#### How to cope?

- ACA's must first make sure that it is actually a corruption allegation and make as lean and focused a mandate as possible.
- Remembering that Investigation is demand lead, Make sure there are enough investigators to react promptly to an allegation. This may mean that more manpower is needed in investigations than in the education part.

#### Manage your resources:

- i. Do not divulge all resources to all cases and keep small budgets for small investigations.
- ii. If investigations go on for months without results, stop the investigations. The great majorities of files opened do not end up in court (sometimes the evidence is lacking, etc) ACA's must satisfy public needs by letting them know that the matter was investigated properly and how investigations were carried out and why they were stopped.

- **Delayed Justice**

One of the main challenges, faced by ACA's, crucial to the success of AC policies and out of their hands, is justice. Justice delayed in corruption cases where courts systems get clogged and have a backlog, cases go cold, witnesses die or files disappear will all have disastrous effects particularly on the anti corruption strategy when the public demand to see results of the efforts, and as a result of justice delayed, government feel that they should not continue to fund AC efforts.

### **What is the solution?**

**1) Special Courts:** There are special courts in many domain, family court, civil courts; a special court with expertise on corruption can also be set up within the judicial system and all it would need is direction from the Chief Justice; and recognizing that all judges have their area of expertise; judges with expertise in corruption cases could be assigned to these courts, and when the special court does not have enough cases it can still deal with other cases.

**2) Prioritize:** Get you AC case to be a priority. In corruption, cases should not be delayed. However, do not allow minor AC case's jump the line of an important case of another form of criminality, or on the direction of the Chief Justice, on the application of the AC body, the DPP or the prosecutor to leap the case to the top. The Magistrate should decide on the priority of the case and can help with prioritization as it is not a complicated direction and the Chief justice needs to give direction to the judiciary.

**3) Customary Court Systems or Justice of the Peace:** Some countries such as Botswana and Tanzania, have elaborate and long standing Customary Court systems that have jurisdiction over assault, stock theft, and some civil matters and do not have a backlog. Cases are dealt with quickly and speedily. These court systems have jurisdiction over assault, theft, stock theft, and are able to prosecute and sentence guilty persons for up to 5 years imprisonment; yet they are not professional judiciary, there are no qualified lawyers, judges, and no waiting lists. And there is an automatic right to go straight to or appeal to the Magistrates Court.

For example: In the Justice of the Peace System in the England and Wales, up to 90 percent of cases are dealt with in these courts. The staff is not legally qualified. They now have a legally qualified clerk who advices them on the law and the legal procedures and the Presidents of these Justice of the Peace Courts are only now getting legal training. The advantage of the Justice of the Peace System is speed; there are no waiting lists and no lawyers.

**Safe guards:** there is no reason why DPP should not consent for such cases to be brought to court. In some countries there is an automatic right to move the case to Magistrate Court or appeal to the Magistrate and review and regular revision of the customary courts.

These systems have served communities well for so long, they should be used. It needs changing the warrant of the courts which can be done in the Judiciary. The customary courts work on a

warrant that changes its jurisdiction, if customary courts can deal with cases of stock theft, and then small cases of small amounts of stolen cash can be dealt with as they do with stock theft.

**Warning by the Superintendent:** If ACA's accept that they have to deal with even the smallest matters of corruption, then this method can be used to deal with these cases. These are orders made by Senior Police Officers; a Warning by the Superintendent have been used for years to make sure that the courts do not get clogged with cases. First time offenders that admit their crimes and agree to accept a warning rather than to go to court, do not have to go to court and their crime is recorded on the Public Record. If he commits the offence again, then he loses the option of a warning and goes to court.

- **Asset declaration**

There is a common belief, that Asset declaration will catch the guilty or corrupt and deter the possible offenders or those that are inclined to corruption, is misleading. The object of declaration is to help identify conflicts of interest which is a different matter and not to catch corrupt criminals. Any mandate built on this idea is a failure. In countries where public servants are required to annually make declaration of assets will have experienced how resource intensive it is to verify the declaration and a huge task with limited resources. Even if you get all the declarations by those who have to make them, the legitimate will declare honestly and the corrupt will declare honestly their ill gotten gains.

Asset Declaration is based on the assumption that all persons will declare honestly all assets and carrying out an illicit enrichment or unexplained wealth enquiry is time consuming.

The purpose of the Declaration of Asset System needs to be re thought and if the purpose is to identify conflict of interest, then we will see that there is need to change the architectural structure of this system as not everyone should declare their assets and we would need to be more selective about who needs to declare their assets. Declaration should be made by senior officials, people in the sensitive services and within anti corruption bodies it needs to happen all the way down, and within the ministry of health and ministry of education. We should ask if there is a risk of conflict of interest for officials below a certain level and limit the declaration thus.

Even in the UN convention, the objective of Asset declaration is not stated; what it says is that "States are enjoined to have a declaration of asset system for appropriate officials".

Where is this declaration going?

In the event there is a Unexplained Wealth Charge and they are looking into the declaration of an official. If his declaration was sent to the ACA, how do they know if there was conflict of interest, as they do not know what the officials work may involve. The declarations should be made to the boss as there is no point to send this to an outside body as they have no idea who

the staff is and what they do. The boss then, as required by the civil service regulation, sends a copy of this information to the AC Authority, for safe guarding and filing for future referrals in the event of questioning.

- **Lack of resources**

Setting up a body, making up a law and starving it of essential resources is dooming it to failure. This is a problem in so many countries. ACA's have to compete for funding against the big spending departments such as health, education and defense, etc.; so governments must prioritize its importance.

The bulk of the ACA budget goes to salaries followed by the daily working costs. The exact costs must be identified in order to work out what the effort it costing. It is estimated that approximately 90 percent of the recurrent budget is salaries. A country would need to be prepared to spend up to half a percent of its National Recurrent Budget on AC when the AC is operating at full capacity.

ACA's should note that this is not all new money as there is scope to redeploy posts within the administration into the AC body. Also, as revenue streams start to flow back into the treasury, you find that the economy is developing and the government's budget grows, the recurrent budget will increase and the well established ACA's budget should expect its percentage to slowly drop. Changes in allocation of funds by governments before you are fully developed is a sure sign of changes of will and budget reductions in particular, before anything has been done or results seen, is a good indication of reduced political will.

**Source and condition of funding:** ACA's must be careful about resources from non government sources that are not part of the estimates voted by parliament, such as donations in cash or in kind from the donor communities, as they are received on the assumption that they were given in good faith, but would have been given with conditions. Conditionality has been used for a number of years and in recent times, has been come to be known as Risk Assessment.

The donors might want an assessment on how their money will be used and the worse the risk rating the less likely you are going to get the money. So the source of the donation from the international community needs examining because it comes with conditions and you might find that you are no longer in control of your agenda. Donors like to fund discreet self contained projects where the details are clear in terms of what is being achieved and what is being done.

Donations from the private sector however, when large local enterprises such as a bank, commercial, or industrial institution starts offering money and goodies, be aware as it might be inappropriate to accept that, and AC's should be careful not to compromise their integrity as it is paramount because if the community lose confidence, the ACA will not progress.

**Solution:** The decision to accept a donation, loan, grants or services in kind should not be made by the ACA. Governments should set up decision mechanisms to handle this and that takes the decision away from you. If once this mechanism says that the AC can accept, then you will be bound by their decision.

**Remuneration;** 90 percent of the ACA budget is spent on salaries, it is only if civil service salaries have fallen so low that they no longer offer a decent standard of living that the salaries should be higher. AC's should use the private sector as a guide to determine salary scales, if they want to retain good people, keeping in mind that AC officers are unlikely to have a supplementary income from another job, all AC staff must earn a decent salary which should be paid out of public funds.

### Good practices

1. **A Gift Offence**
2. **An Illicit Enrichment Offence**
3. **Corruption-Related Crime**
4. **Bribery of Judges, Arbitrators and Sports Officials**
5. **Bribery or Treating of Voters or Candidates**
6. **Advisory Committees**
7. **Measuring Progress**

- **A Gift Offense**

This applies only to public servants. A public servant cannot accept gifts or favours unless they have permission to do so, as it falls short of corruption. It is a less serious offence that can have a large effect at later stages. This is a valuable offence in countries where civil servants will not do anything without a gift.

The government gives a general approval that all civil servants can accept gifts on certain occasions, the traditional gift such as a wedding gift, and air miles for personal use if one travels a lot, and discounts or soft loans, providing that these are available to all public servants.

**Special permission:** once a gift is received, such as after a presentation, as soon as you reach your office, make a quick note to whoever administrates this position, that you received it and how you plan to dispose of or use it.

Whenever you receive surprise or unexpected gifts, always seek special permission with how you plan to use the gift. You are guilty of the offence unless you have the general or special permission.

- **Measuring Progress**

ACA's should remember that the Finance Minister will not want to give any resources unless progress is being made and this progress must be evident to your community and the world. The community has to see that you are making progress, and the progress must be measured.

Statistics give a limited but factual measure.

Public Opinion Surveys carried out by external stakeholders annually, commissioned by the ACA, and done by a polling firm should be done from the onset of the ACA and conducted annually to;

- Measure public or community perception of the corruption situation, if it is getting worse or better.
- Measure personal attitudes to corruption [which should be the main goal] and to change the attitude of everyone in the community.
- Measure the support to the AC body that leads to the eradication of corruption.

A perception survey or an opinion poll, done properly with the right sample, the right questions asked and the findings analyzed properly, will enable ACA's to adjust their implementation strategy from year to year, allows ACA's to benchmark from others and to measure their progress.

- The sample should be a national sample and be maintained annually, in order to get the true results. The ACA's has the responsibility of making clear what questions need asking and AC officers should have input on deciding what these questions should be.
- The polling company or the technical firm should decide on the sample size and the methodology noting that if the sample is going to change then all subsequent researches should be the same.
- ACA's should publish the results and copy the government.

Above all, ACA's should know that corruption can be overcome.

## **Discussions and Opinions**

There was a general consensus;

That justice delayed is a perennial and repeated problem in most of the African countries and there is nothing that can be done about the justice system by ACA's as the justice and its administration is not their responsibility.

That in some countries where there are shortages of courts and or personnel, and cases of outside help through the provision of a management system to help them do their jobs, provision of court rooms and recording equipments, some judges have submitted to further training and the Judiciary, so the community should be a stakeholder and play their role in AC efforts and be agreeable to education.

That protection of the judges from people, who are sentenced or threaten judges and immunity by some judges against advancing corruption allegations against them, is a general concern for ACA's. All judges including those as sports officials, cannot be said to be agents of anybody, they have their own category, however, this distinction does not mean that they fall outside the law against bribery or are a group of people who cannot be bribed, and therefore they are agents of the state; suggesting that there should not be any difficulty in investigating and prosecuting the corrupt judges or the member of the governing body or the arbitrator who has been entrusted to deal with matters even-handedly and impartially.

The community of the judiciary need to partner with the AC's in the fight against corruption, they have an important role to play and one of the contributions of the judiciary is to be agreeable to education and the examination of the systems that enable corruption to occur, for example transfers of files and that it is not the AC's role to advocate for government to change its judiciary mandates

Human resource or capacity building in ACA's does not necessary mean bigger expenses and does not always involve the creation of new posts, it can be a development of existing posts such as moving a police post to an AC post which is basically transferring that post from the police to the AC unit. Here there are no added costs, as the budget already exists and no new money is required.

Asset declaration if successfully compiled into a comprehensive database is a useful tool and does have value, and can be invaluable in investigating income monitoring conflict of interest but the fundamental assumption that it will catch out the criminal just because they declared their assets, is not true. There is a tendency by most countries to overlook civil and political rights when they impose these requirements and should ask themselves that if the mere fact that they are public officials, should the state put aside their fundamental human right to privacy.

Countries that have Investigating policies that thrive on high profile cases and where selected people are of the opinion that trivial staff should be ignored and only high profile people should be investigated, where taking the big fish approach is being advocated as a success story, should not categorize cases as important or non important.

## **Fraud Detection – Research Findings**

**By Dr. Roger Koranteng, Adviser, Governance, Commonwealth Secretariat**

The findings were based on a global study on occupational fraud, the data was collected from a Jan 2008 – Dec, and 2009 research involving 1,843 cases, in 106 nations. It was estimated that in 2009, a potential total fraud loss worth more than US\$2.9 trillion occurred due to occupational fraud.

Occupational fraud is a global problem. Findings differ slightly as most of the trends in fraud schemes, perpetrator characteristics and anti-fraud controls are similar regardless of where the fraud occurred.

The paper defined Occupational Fraud as the use of one's occupation for personal enrichment through deliberate misuse or misappropriation of their organization's resources and or assets; this ranged from pilferage of supplies and manipulation of times sheets to complex acts of financial statement manipulation and encompasses a wide range of misconduct by employees at every level of an organization.

Perpetrators were found to be as follows;

#### **Management levels**

- High level Executives or owners accounted for 17%
- Mid level management 40%
- Low level employees 42%

#### **Ranging in Age:**

- Below 41 -50, 33%
- Below 31-40, 35%
- Above 51, 17%
- Below 30, 15%

#### **Gender:**

- Male, 67%
- Female, 33%

#### **Criminal background: findings showed that the majority of those who participate in fraud have no prior record**

- Charged but never convicted before, 7%
- Prior convictions, 7%
- Never charged or convicted at all, 86%

#### **How and who initially detects corruption:**

- Tip Offs, 40%
- Through Internal Reviews, 15%
- Through Internal Audit, 14%
- By Accident, 8%
- By External Auditors, 5%
- Notification by Police, 2%

#### **Tip Offs: Employees were found to be the main source of tip offs suggesting that this would have an impact on the integrity committees**

Vendor, 12%

Anonymous, 14%

Customers, 18%  
Employee, 50%,

### Why commit Fraud?



#### Pressure –

- for success by the organization or the family, 8%,
- addiction problems, 12%,
- family issues/divorce, 17%,
- financial difficulties, 36%,
- living beyond means, 43%

#### Opportunity –

- Poor tone at the top (of the management), 8%,
- No internal reviews, 18%,
- Override of existing internal control (abuse of systems and loopholes), 19%
- Lack of internal controls (take advantage of opportunities) 38%

### RATIONALIZATION

#### Attitudes 1

- First time offenders (just for the sake of doing it) 85%,
- Balancing wages (underpaid, will pay it back, dishonest boss, everyone is doing it, etc) 15%, this was found to be particularly common amongst civil servants who tended to misappropriate funds in small sums, continuously over a period of time.

#### Attitude 2

##### Red light signs to lookout for;

- Staff shows signs of unwillingness to share duties
- Staff having a very close association with vendor/clients particularly in the Purchasing, Finance and Marketing departments

- Wheeler-dealer attitude
- Refusal to take vacations
- Often work excessive overtime, they volunteer to stay late
- Turn down of promotions and do not want to change their positions, such as the police

### **Prevention of crime or fraud**

- Awareness creation is very important
- Tip-Offs – fraud reporting policies and programs, make it easy for employee to report without any hindrance or risk to them
- Risk assessment
- Internal Audit. And Antifraud controls

### **Fraud reporting mechanism**

- Organizations should implement hotlines for tip offs from inter and external systems. Such reporting mechanisms should allow for anonymity, confidentiality and protection of whistle blowers, and witnesses should be encouraged to report without fears of reprisal.
- External audits, this is mostly widely used by most organizations but they are ranked poorly in both detecting fraud and limiting losses due to fraud. Although they can have a strong effect as a preventative measure on fraudulent behavior but should not be relied upon exclusively for fraud detection.
- Surprise Audit - The most effective but underutilized tool is the Surprise Audits, as they detect frauds quicker, prevent fraud by creating fear of detection in perpetrators. As people only commit fraud when they feel that they will not be detected. Less than 30 percent of organizations conduct surprise audits; and detect fraud more easily.

Findings showed Occupational fraud perpetrators tend to commit fraud if they believe they will not be caught. The threat of surprise audits increases employees' perception that fraud will be detected and thus has a strong deterrent effect on potential fraudsters

### **Education**

Employee education is the foundation for prevention of occupational fraud. Staff members are an organization's top fraud detection method; employees must be trained in what constitutes fraud, how it hurts everyone in the company and how to report any questionable activity. The research shows that most frauds are detected by tip offs, but also that organizations that have anti-fraud training for employees and managers experience lower fraud losses.

### **Red fags**

Fraudsters have behavioral changes and tend to exhibit behavioural warning signs of their misdeeds. These red flags — living beyond one's means, a sudden change of lifestyle or ownership of properties.

Auditors and employees alike should be trained to recognize behavioural signs that a fraud is occurring and encouraged not to ignore such red flags, as they might be the key to detecting or deterring a fraud.

Therefore one should be trained to combat fraud by detecting and deterring the following red flag signs:

- Living beyond means (43.0%)
- Financial difficulties (36.4%)
- Control issues, unwillingness to share duties (22.6%)
- Unusually close association with vendor/customer (22.1%)
- Wheeler-dealer attitude (20.3%)
- Divorce/family problems (17.1%)
- Irritability, suspiciousness or defensiveness (13.6%)
- Addiction problems (11.9%)
- Refusal to take vacations (10.2%)
- Past employment-related problems (9.3%)
- Complained about inadequate pay (7.9%)
- Excessive pressure from within organization (7.9%)
- Past legal problems (7.3%)
- Instability in life circumstances (7.5%)
- Excessive family/peer pressure for success (5.1%)
- Complained about lack of authority (4.6%)

### **Fraud prevention checklist**

Given the high costs of occupational fraud, effective fraud prevention measures are critical.

Organizations should implement a fraud prevention checklist similar to that in the Addendum of this report in order to help eliminate fraud before it occurs such as;

- Anti-fraud training for employees to increase their awareness, perception of detection and putting in place a reporting mechanism.
- Change the tone of senior management to one of honesty and integrity, and the introduction fraud audits

### **Conclusion**

The most cost effective way to limit fraud is to prevent it from occurring. The checklist has been designed to help organizations test the effectiveness of their fraud prevention measure.

### **Contributions and opinions**

The delegates opined that the conceptual distinction given for Occupational fraud is embezzlement and that there is a conceptual distinction between fraud and corruption and that Fraud can also be corruption facilitated;

- They argued that Occupational fraud is a misnomer; and that Fraud is positive misrepresentation in the form of an omission where there was a duty to disclose; some felt that the distinguishing feature of fraud was the corruption itself whilst some said that occupational fraud was Embezzlement, and embezzlement which is theft by an employee from the employer.

- Corruption is a more distinct offence; Corruption is unauthorized trading on entrusted authority and includes an offer of a benefit and abuse of authority or power. As a working description; it is the unauthorized trading of entrusted authority, simply put, Corruption is bribery.
- When employees are presented with opportunities to be corrupt they should not be further furnished with ways to go against the organization in the form of training, so internal control systems should be put in place and periodic reviews to identify and rectify loopholes to keep employees from turning training of detection against the organization
- The difference between financial difficulties and living beyond ones means was defined;
  - Financial difficulties; means that you cannot meet certain needs that require satisfaction urgently such as family issues, resulting in you becoming corrupt.
  - Living beyond your 'means;' means that you resort to corruption in order to gain more than you earn and support a lifestyle that you want but cannot afford.

### **Key recommendations for the future**

- Need for clearer common definition of Fraud and Corruption
- Recognizing Bribery is at the heart of the Anti-Corruption mandate; need for conceptual clarification between the different values in the criminal law to be made so as not to confuse the mandate of AC with other criminality.
- Need for the mandate to include criminality investigation allowing ACA's to investigate corruption related crime where criminality has been facilitated by corruption, particularly criminal, drugs, arms smuggling, which are facilitated by corruption such as bribing of the guards.

## CHAPTER 4: Commonwealth Africa Country Status on Anti Corruption

### TANZANIA

Presented by Dr. Edward Gamaya Hoseah, Director General, Anti Corruption Agency

#### **Demographic:**

Tanzania is found in the Eastern part of Africa and is a country made up of 9,045Km<sup>2</sup> of land.

#### **Political Framework:**

The Anti Corruption Agency of Tanzania was set up in January 1975. It is one of the oldest anti corruption agencies in Africa. They started by capacity building, and currently have over 1700 investigators; who are spread throughout the country in all regions.

#### **Mandate:**

To investigate reports that are brought in and also to educate the public on corruption.

#### **Initiatives:**

In 1999, the Agency created an initiative known as the Anti Corruption Strategy; which was reviewed in 2008 and again in 2011. All sectors are involved in this strategy; the private bodies, civil societies, public institutions, media, all categories of professionals and the youth. This has helped as instead of the public looking at the agency as the solution to the crimes, they also look at themselves at how they are helping fight corruption. The introduction of Integrity Committees – trained by the Agency – as a way to further decentralize the work done. These committees work in the smaller towns and villages on behalf of the Agency.

#### **Achievements:**

They have succeeded in capacity, not only in Head Office, but also in the districts and villages. From 1998, the anti-corruption agency was spread throughout the country. They have managed to build their human resource capacity to the largest in Africa. They successfully created an environment that keeps people working in the agency and influenced the creation of the Integrity Committees in many institutions, and persuaded and influenced the political leaders to address corruption. Their officers have a guaranteed tenure until retirement age. Also, the Agency's budget has been maintained for the past 6 years and they have complete operational independence.

#### **Challenges:**

The agency has no prosecutorial powers, this has handicapped their efforts. After all investigations are done and cases are brought forward, the final decision is left with the judiciary, who have constitutional support, and therefore cannot be questioned when cases stay dormant for months or years. The public then get discouraged when people are not taken to court, and blame tends to fall on the Agency.

#### **Recommendations:**

Capacity building is important to overcome challenges; as is recruitment, resources, and new processes such as electronic capabilities are needed, as they implement the different approaches, effective engagement with the public sector to be compliant with the rules and regulations of the constitution to

curb corruption and enforcement to be made obligatory. Also, over 50 African countries have ratified the United Nations Convention against Corruption (UNCAC), but less than 30 African countries have ratified the African Union Convention against Corruption (AUCAC) of 2003, and so the delegation was urged to ratify it.

### **Points and Reflection**

The delegation concurred that Political Corruption is the most adverse type of corruption and that it is difficult to culminate. The Anti Corruption Agency in Tanzania raised awareness in courts and in the communities as their first step to the suppression of corruption and has managed to intervene, but not eradicate where corruption occurs. In terms of international cooperation Tanzania's Partnership is successful with Botswana (repatriation of fugitives), Malawi (investigating cases) and Kenya (collecting evidence).

All the delegates opined that all Anti Corruption Agencies and Commissions should be independent, because there are some cases where laws are not enforced because politicians controlled which ones should be enforced and which should not.

## **BOTSWANA**

**Presented by Ms. Botlhale Makgekgenene, Deputy Director DCEC**

### **Political Framework:**

The Directorate on Corruption and Economic Crime was established in 1994 under the Corruption and Economic Crimes Act. It works hand in hand with the DPP to handle cases that make it to court.

### **Mandate:**

The Directorate is divided into four main branches. 1) The Investigation branch is mandated to receive and investigate reports on corruption and economic crimes. All cases are to be taken to the DPP for assessment and prosecution. 2) The Corruption Prevention branch is mandated to evade corruption in public bodies. 3) The Public Education branch is responsible for educating the public through fairs, exhibitions, presentations, and other initiatives and programs. 4) The Corporate Services branch ensures the Directorate runs smoothly.

### **Initiatives:**

The Directorate developed an Intelligence Unit that gathers information collected from investigations and keys it in a database, also constructed for the Directorate. They have a Technical Support Unit that assists and supports the operation of the Directorate through technical equipment to augment collection of evidence and have initiated the seconding of officers in Government Ministries to promote an anti corruption culture in ministerial operations.

The Directorate performs routine assignment studies to make sure that there are no loopholes in systems that may influence corruption, after which recommendations are made. They have increased workshops with identified strategic partners such as the Sports Arena, religious leaders, Chinese business community, AG, Ombudsman, PPADB, and other private and public institutions to develop the

Code of Conduct, Corruption Prevention Measures and Corruption Risk Assessment; which are also conducted with the aim to improve quality of management.

They have collaborated with Village Development Committees, to sensitize them with information. It has also instituted a strategic plan for 2016 with key stakeholders as corruption still exists in some public institutions. The Directorate has further signed a Memorandum of Understanding with oversight agencies to benchmark and pool resources to increase and diversify in-house training.

#### **Achievements:**

The Directorate noted that there has been an increase in reports received and a reduction of corruption levels in government ministries since the establishment of an Assessment section. More cases have been investigated. A Service Level Agreement with the DPP has resulted in the increased amounts of dockets submitted and turnaround of cases, the establishment of Anti Corruption Units (ACU's) in ministries has ensured that cases are accounted for.

The Directorate collaborated and benchmarked from other African countries; Corruption Prevention Committees were set up and anti corruption concepts are being infused in professional programs. Botswana has signed and ratified the UNCAC and continues to produce publications and hold workshops; and the use of different mediums of communication to educate the public; such as Radio and Television programs. They have managed to influence the setting up of Anti Corruption Clubs in schools that further disseminates information to all ages of youth to instill an anti corrupt culture.

#### **Challenges:**

There exists a replica in efforts in the reporting system used, which is coupled by the high case load reported. The Directorate has also found a challenge in implementing Youth Programs due to timing. The absence of whistle blowing legislation has proven difficult for people to come forward and report cases.

#### **Recommendations:**

The Directorate needs to build capacity by increasing the Human Resources. There is also a need for a better strategy for managing case loads, by engaging with a quick response team and a Professional Standard Unit that could ensure the increase of turnaround cases from the DPP.

#### **Points and Reflection**

The delegation were impressed with the level of political will that exists in Botswana as reflected by the Presidents presence in the opening of the meeting and the level of national and international cooperation they have is reflected in the collaboration with the public institutions and community projects such as the VDC's. Botswana's initiative in contracting China to learn the language so that meetings and negotiations are done easier and to end trivial acts of corruption that use the language barrier as an excuse, and their budgetary process which has never been a problem in Botswana as the DCEC since inception have afforded to get staff during the global recession period, was exemplary.

## **MALAWI**

**Presented by Elexius E. Nampota, Director of the Malawi Anti Corruption Bureau**

**Political Framework:** the Anti-Corruption Bureau was established in 1998, under the Corrupt Practices Act, a law on corruption, enacted by Parliament in 1995.

**Anti Corruption Agencies:**

Other institutions established in Malawi to combat corruption are the Human Rights Commission, the Ombudsman, and the Malawi Law Commission.

**Mandate:**

The Corrupt Practices Act mandates the Bureau to perform three main functions:

(1) To promote corruption prevention & education. It does so by reviewing the legislation and policies to prevent fraud and corruption. It teaches client institutions, with investigations mandate, basic investigation skills. The Bureau also disseminates information on the dangers and evils of corruption to enlist and foster public support in the fight against corruption. It has developed corruption prevention policies, whistle blower guides, and codes of ethical conduct for client institutions. It also conducts fraud and corruption prevention sensitization workshops. Furthermore, it reviews work systems and procedures for client institutions. The Bureau conducts examinations spot checking exercises.

(2) Carry out investigations. The Bureau has a Complaints Review Committee (CRC), which comprises of heads of departments and other officers who review complaints and make recommendations to the Director for action who authorizes, in writing, an investigation on complaints that have some elements of corruption. The Act states that all public officers are to fully assist in investigations in any way; from answering questions to furnishing original documents.

(3) To prosecute. The Bureau is mandated to prosecute all cases of corruption under investigation. Before any prosecution commences, the Bureau must get consent from the Director of Public Prosecutions (DPP) within thirty (30) days.

**Initiatives:**

The Bureau is implementing a National Anti-Corruption Strategy (NACS) in eight sectors: Executive, Legislature, Judiciary, Private Sector, Civil Society, Traditional Leaders, Faith Based Organizations and the media. This strategy shall be overseen by the National Integrity Committee (NIC), comprising heads of the sectors. Institutional Integrity Committees (IIC's) have been established in the public and other sectors to work with the ACB and report to NIC.

**Achievements:**

Among the achievements of the Anti Corruption Bureau, is the development of the National Anti-Corruption Strategy and its implementation; The formation of the anti-corruption clubs across the country, which have proved to be effective whistle blowers at all levels of the community; The implementation of the National Examinations Spot Checking Program, which has effectively eliminated systematic cheating and improved the overall quality of education in Malawi; The Bureau has many successful investigations of cases, prosecutions and recovered property obtained through corruption offences. The success has been empirically demonstrated by two domestic surveys, and the TI corruption perception index. On the TI index Malawi has steadily improved, in 2010 it was ranked 87 out of 187 countries; in 2011, it is 85.

**Challenges:**

The Bureau is funded by the Malawi Government and Development Partners, which do not provide enough funding. Also, the bureau lacks capacity as there are staffing, resources and specialized officers needed. These requirements demand financial resources, which are very limited.

**Recommendations:**

The Bureau is in the process of developing its new strategic plan for 2011-16 to provide clearer focus of the Bureau. The Malawi Government has reviewed and approved a new structure for the Bureau and the Bureau which is in the process of filling a number of positions crucial to its operations and intends to intensify specialized training of Officers in various fields.

**Points and Reflection**

Malawi's Complaints Review Commission is under the Authority of the Director, who is supported by Statutory Aids that are drawn from many departments and the President has assured the Committee that there shall be no interference by government as there is a separate legal open door forum where their issues are discussed.

## NAMIBIA

Presented by Paulus Noa, Director of Anti Corruption Commission

**Political Framework:**

Parliament of Namibia enacted the Anti-Corruption Act No. 8 of 2003. The Anti Corruption Commission is a constitutional body under Article 94A of the Constitution of the Republic of Namibia. It is one of the youngest Anti Corruption Commissions in the region; established in 2006. It only started operating in 2007. The head of the Commission is only accountable to Parliament at the National Assembly through an annual report submitted at the end of each Financial Year. Two other laws were enacted to work in line with the Anti Corruption Act, specifically the Prevention of Organised Crime Act; where assets under investigation are restrained, and the Financial Intelligence Act; enacted to deal with money laundering. Any suspicious monetary transactions are monitored and reported to the Commission or to the police, who also deal with money laundering.

**Mandate:**

They have a wide range of powers to investigate any conduct of a person employed by a public or private body, if they are connected with corrupt practices. They may receive reports or initiate investigations on allegations of corrupt practices received either from media or from an individual. They also consider whether to investigate allegations or whether to refer the cases to any other appropriate authority; where they can consult, cooperate and exchange information to take appropriate action. This includes government bodies, international contacts and private bodies that are authorised to conduct inquiries or investigations in relation to corrupt practices. When this occurs, the other authority is asked to give the Commission feedback so that cases are not delayed. The Commission can assemble evidence obtained from investigations and furnish it to any other appropriate authority.

The Anti Corruption Commission of Namibia also takes measures for the prevention of corruption by examining the practices, systems and procedures of both public bodies and private bodies. Through their investigations, they have managed to identify loopholes in institutional policies and recommended actions to shut them. The commission is also mandated to educate the public on the evils and dangers of corruption. They have disseminated information to the public about the directives of the Commission

resulting in the reduction of reports; as people used to report all sorts of erstwhile criminal offences. They generally do anything else authorized to do under the Anti Corruption Act.

#### **Initiatives:**

The Anti Corruption Commission of Namibia realised that the obligation of educating the public does not rest on the Commission alone; as the one platform where all institutions concur regardless of ideology, is fighting corruption. It has therefore formed successful partnerships with other stakeholders, such as churches, civil society, communities and schools; to hold workshops, classes and seminars, giving out educational materials, targeting institutions that are prone to corruption. The churches have used their influence to raise awareness to their congregation.

The Commission has made international cooperation an obligation by endorsing it in the law, stating that the Commission is to consult and cooperate with international anti corruption authorities if it is within their power.

#### **Achievements:**

The Commission has successfully managed to involve and engage with the public by running many anti-corruption awareness adverts on the national radio and through other private electronic media institutions; to make them exert more on corruption prevention and to adopt a reactive approach. The public of Namibia now observes International Anti-Corruption Day and participates in Trade Fairs or Business Expo's. Altogether, their efforts have encouraged the establishment of anti-corruption clubs that have organized anti-corruption events, such as the Great Walk Against Corruption; where diplomats, senior government officials and the community were invited and participated in.

#### **Challenges:**

The Commission is relatively new and is in the process of decentralizing its offices to the 13 regions. But the budget is inadequate, making it difficult to build the capacity and get more staffing.

#### **Recommendations carried out:**

It was noted that the budget has increased annually, as government is trying hard to combat corruption, however, the allocation is insufficient. There has not been political interference with the work of the Commission since the commencement of the Commission.

#### **Points and Reflection**

The delegation opined that one can only effectively tackle corruption if the Anti Corruption Commissions held the prosecution in their own hands, as opposed to giving the power to the judiciary. The Anti Corruption Commissions organized walk against corruption and the mobilization of institutions of the public and private sectors was commendable as was the initiative in the production of branded t-shirts, caps, banners, umbrellas and other novelties with messages against corruption and sought to know how the institutions turned it into a competition amongst themselves and included speeches which were made by sector representatives at the beginning and end of the walk and the final result of it now becoming an annual celebration could be mimicked by other countries.

## **SOUTH AFRICA**

**Presented by Michelle Ramoorthy, Deputy Director of Public Prosecutions, National Prosecuting Authority**

**Political Framework:**

Under the Common Law, corruption was categorized under bribery accepted by State Officials only, and if were committed by one who is not a State Official, they were prosecuted for a statutory crime under the Corruption Act, No. 6 of 1959. A Corruption Act, No. 92 of 1994 replaced the Corruption Act and the Common law, but unfortunately made successful prosecution very difficult. It was then changed in 2004, to include different instances of corruption out of this general crime.

**Anti Corruption Agencies:**

There are a number of institutions that exist that pool resources in their efforts in the fight against corruption. They all have their own mandates.

**Public Protector:** It is equivalent to the Ombudsman in other countries. It is mandated to receive complaints from the general public and opposition. It has the capacity to carry out its own investigations; such as administrative issues and policies within all types of institutions. It may refer some of its cases to the South African Police Service (SAPS) and the National Prosecuting Authority, for further action.

**Public Service Commission:** This Commission deals with awareness and education matters on Anti corruption. Also, if there are any Administrative suspected matters, the Commission ensures that they are investigated and disciplinary steps are recommended and performed. If cases get too complex in the criminal aspect, it refers them to the SAPS and NPA, where necessary.

**Special Investigation Unit:** This Unit was established by Parliament. It deals with concerns with reference to contracts, policies, and procurements for tenders, among others. They investigate the processes involved to verify if they are acceptable, and prepare a report with recommendations to the parliament. They, too, may refer cases to the SAPS and NPA, if further investigation is considered necessary.

**Initiatives:**

A Committee was established, known as the Justice Crime Prevent and Security Cluster (JPSC); comprising of the Department of Defense, the Department of Home Affairs, the NPA, and State Security, among others. All Heads of the JPSC have signed a Delivery Agreement with President to achieve certain outputs and targets by 2014, such as improved prosecution of JPSC Officials charged with corruption. Under the same agreement, there is a database that has been developed. Different systems have been set up to capture data required for the database in different Departments.

There is also a Specialized Commercial Unit that deals with and prosecutes complex commercial crime cases that are found in a specific office. They collaborate with the SAPS Commercial Branch; their cases are prosecuted in dedicated regional courts. They work by setting out procedural guidelines and policies; and so far have achieved a 94 percent success rate.

An Anti Corruption Task Team (ACTT) was established, and consists of SAPS and Directorate for Prior to Crime Investigation – the organ that replaced the former Scorpions) – NPA, Special Investigation Unit (SIU), the SA Revenue Service, the Financial Intelligence Center, the National Treasury and the Accountant General. It is responsible for ensuring that stakeholders develop a detailed plan to reach the targets set out in the Delivery Agreement. They have, so far, identified thirty seven (37) priority cases

that they are currently handling. It has received ZAR150 million to deliver services from supporting institutions.

South Africa is one of the countries that adopted the SADC Protocol Against Corruption. It has also signed and ratified the AUCAC, the UNCAC and has adopted the OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; in 2007.

### **Challenges:**

There is a need for Joint and Equal participation of Departments of the different agencies in South Africa. There is also no coordination between these Departments. The different government institutions are applying different and uncoordinated approaches on corruption. The Departments also face a challenge to populate the database. The agencies do not have the capacity to prosecute cases and investigate on their own, as the cases are very heavy. The procedures of processing cases are long and cumbersome, resulting in the dragging of case times.

### **Recommendations:**

All Departments need to improve communication to optimum levels; especially between the SAPS investigator, the prosecutors and all other role players. They also need to promote honesty, openness and transparency in dealings between Departments. They should all provide enough resources. Assets that are under investigation should be retained as early as possible. There should be dedicated prosecutors to deal with cases from inception to the prosecution; who shall provide continuous focus on progress on each case.

### **Points and Reflection**

The public of SA need assurances that something material is being done, and they will only feel something is being done when they see the people they think are corrupt are being auctioned against so the Commission has to strive to achieve the performance targets set, so the prosecutors must select their Acts very carefully and investigate very carefully before they bring their cases to court so that there are good prospects of the prosecution.

The creation of the AC laws was prompted when ministers were being investigated and have been in existence since 1965.

## **SIERRA LEONE**

**By Joseph Fitzgerald-Kamara, Chairperson, Anti Corruption Commission**

### **Demographics:**

Sierra Leone is a West African State bordered by Guinea and Liberia with an estimated population of five million people.

### **Political Framework:**

The Sierra Leone Anti Corruption Commission was set up in 2000, by an act of Parliament, and was structured as a hybrid of the Singapore and Hong Kong Model. In 2008, the Anti Corruption Act was enacted to provide the Commission with full independence to perform tasks necessary for its mandate.

It is further empowered by Section 59 (1) of the Anti Corruption Act, which restricts the disposal of assets of persons under investigation.

**Mandate:**

The Commission uses the three (3) pronged approaches of prevention, public sensitization and investigations. It has powers to independently investigate and prosecute cases without recourse to the Office of the Attorney General and Minister of Justice. They also have the powers of arrest, detention, search and seizure of the corrupt and assets, respectively. They may recover any assets from persons found guilty or a third party if the Commission feels that they are holding assets or property on behalf of an individual under investigation and the Commission may impose restrictions on income from property.

**Initiatives:**

The Government of Sierra Leone introduced the National Anti Corruption Strategy, which involves all stakeholders to take an active part in the fight against corruption. The Commission uses certain tools that assist in their investigations, such as the power to compel a person or institution to produce documents necessary for investigation; the sanction against individuals who fail to produce documents to refuse to cooperate in that regard. Sierra Leone has also signed into and ratified the UNCAC and is actively implementing its policies.

The Commission formed an alliance with the Media; adding value to monitoring, recommendations and advocacy given by the Commission and have signed many Memorandums of Understanding with key institutions, such as Parliament, the Sierra Leone Indigenous Business Association (SLIBA) and the Sierra Leone Investment and Export Promotion Agency (SLIEPA).

The Public Education and Outreach departments have spread out to educate the public, which encouraged the formation of Integrity Clubs in schools through theatre, as well as the reporting of corruption using the Commissions Hotlines.

**Achievements:**

From the passage of the new Act in 2008, the Commission has recovered about US\$1.2 million from mostly corporate bodies. Furthermore, over 17, 000 public servants have declared their assets, including the Executive. The Systems and Processes Review Department of the Commission that reviewed systems and processes of Ministries, Departments and Agencies have resulted in the improved service delivery from the implementation of their recommendations.

The Commission has achieved full decentralization of their offices to the 14 districts in Sierra Leone. In the most remote areas, they take advantage of printed and electronic media, as cited in the MoU signed with the Media.

**Challenges:**

The main challenges faced by the Commission are the weak anti corruption infrastructure they currently have and the inadequate funding. This is further aggravated by the lack of appropriate measuring tools. Political will is still needed, as well as public support. The Commission also needs to build its capacity in terms of structures for their offices, as well as staffing.

**Recommendations:**

There is need for continuous organizational growth, with aid from consistent and auditable donations, if possible. An adequate and appropriate strategic plan must be developed with room to be reviewed with rational performance measurement procedures. There is also need for confidence building measures between the Government, the Commission, the Civil Society and the population at large. Public Education should also be kept at high priority.

**Points and Reflection:**

Political Will should trickle down to all levels, and the layman. So there should be 3 levels of political will. The politicians, the Heads of ACC's and the ordinary man who looks up at us to see what we are doing to stop corruption from happening.

Other than the recovery of monies through AC efforts, offenders were fined and given up to 5 year imprisonment while due to lack of capacity, some cases were settled out of court and since the creation of the Independent Tribunal, and the adoption of the plea-bargaining act, people are protected. There is a need for the creation of a database for all AC agencies to enable networking for consultations and others.

## MAURITIUS

Presented by Anil Kumar Ujoodha, Director General and Chairman, ICAC

**Demographics:**

Mauritius is a small island off the coast of Mozambique.

**Political Framework:**

The Independent Commission against Corruption was set up after the enactment of the Prevention of Corruption Act in 2002. The Financial Intelligence and Anti-Money Laundering Act of 2002, was enacted to strengthen the Commission by receiving, requesting, analyzing and disseminating to investigative and supervisory authorities' financial information on suspected money laundering offences.

The Mutual Assistance in Criminal and Related Matters Act of 2003, which assures international cooperation when it comes to investigations, prosecutions and proceedings; the Public Procurement Act of 2006, that enhances the public procurement system with international trends, and establishes transparency and accountability; the amended Declaration of Assets Act of 1991, applicable to all National Assembly members and some public institution members that handle public funds; the Banking Act of 2004, that allows the director of the ICAC to apply for information disclosure; the Financial Reporting, that regulates the reporting of all financial matters; the Companies Act of 2001, that enforces the international Accounting Standards for all Public, Large and Medium Private companies; and the Financial Services Act of 2007, that promotes transparency and has investigative powers, in respect to financial fraud; were all enacted to further empower the Commission.

**Mandate:**

The Commission may investigate any persons suspected to have committed corruption or any money laundering offences, or any transactions over and above referrals given to them by the Financial Intelligence Unit. It may enter and search premises, track, and monitor and seize property, and order

people under investigation to produce documents that they feel are necessary. It is also mandated to prevent future cases of corruption by assisting public bodies in enhancing the integrity of their systems; and to educate the public of ills of corruption.

**Initiatives:**

New bodies like the Procurement Policy Office, the Central Procurement Board and the Independent Review Panel, were created within the public administration to ensure that the principles, developed under the Public Procurement Act, are properly applied and implemented. A Financial Intelligence Unit was also developed, to fight money laundering and terrorism, and works with the Commission, the Bank, the Financial Service Commission and the Police, among others.

Mauritius has subscribed to the UNCAC, the AUCAC, the AU Convention against Transnational Organized Crime, and the SADC Protocol against Corruption. The Commission has also established the Financial Reporting Council (FRC), the Mauritius Institute of Professional Accountants, the National Committee on Corporate Governance and the Mauritius Institute of Directors.

The Commission has conducted Corruption Prevention Surveys, and developed recommendations from their findings. It then monitors the implementation of the recommendations through follow-up visits and focus group discussions. The Commission also developed a Public Sector Anti-Corruption Framework, which recognizes the importance of detecting, preventing and combating corruption. By collaborating with other institutions, the Commission has developed the Best Practices and Guidelines that serve as self-assessment tools for Public Bodies.

**Achievements:**

The Commission has made significant and committed effort in capacity building and result oriented strategy. The number of convictions has been on the increase and the agency has since been able to establish itself as a credible pillar institution in the country. A holistic and integrated approach along with a sector-wise strategy has been adopted, while specific programs were developed for the public sector, private sector, civil society, youth, women, religious groups, trade unions and the education sector, to create a vigilant society.

The Public Sector Anti-Corruption Framework has managed to assist public bodies in the setting up of anti-corruption strategies, evaluating them independently and improving on existing measures. Public bodies are able to take up ownership of building corruption resistance in their respective organizations. Twenty six (26) Integrity Clubs have been introduced to secondary schools as well as Core Teams, and Community Based Integrity Circles, among others that have developed a partnership between main stakeholders and the civil society.

**Challenges:**

The Commission faces a high public expectation as they have so many tools and initiatives in place to face this economic ill. They also need political support to provide resources, additional powers, independence and accountability. To further educate the public, a more constructive role needs to be played by the media.

**Points and Reflections:**

Most of the AC laws, which have existed since 1965, have been amended.

## ZAMBIA

By Lt. Col. Godfrey R. Kayukwa (Rtd), Director General, Anti-Corruption Commission of Zambia

### **Demographics:**

Zambia is landlocked by 8 countries in Southern Africa with a population of 13,046,508 people (2010 Census)

### **Political Framework:**

The Anti Corruption Act No. 38 was enacted in 2010, and is strengthened by the Public Interest Disclosure (Protection of Whistle Blowers) Act No. 4; Forfeiture of Proceeds of Crimes Act No. 19; and the Plea-Negotiations and Agreement Act No. 20, all of 2010. Zambia's Anti Corruption Commission have taken steps to make provisions for the protection of whistle blowers as required by the SADC Protocol, African Union Convention on Preventing and Combating Corruption, as well as the UNCAC.

### **Mandate:**

The enactment of the laws broadened the Commissions focus to both the Private and Public sector to prevent and take necessary measures to prevent corrupt acts. It is also mandated to initiate, receive and investigate any conduct of any public officer which may be connected with or conducive to corrupt practices; and subject to the directions of the Director of Public Prosecutions, prosecute those suspected of involvement in corrupt practices. It is also to consult, and exchange information with other institutions and international bodies that are mandated to perform the same tasks as they do.

### **Initiatives:**

The Commission, in 2005, consulted stakeholders nationwide and formulated the National Anti Corruption Policy (NACP) which was launched in 2009, followed by the Implementation Plan of the policy in 2010. In 2006, eight (8) Integrity Committees were established, that addressed corruption prevention and improved service delivery in Government Ministries, Departments and Agencies. Now, twenty (20) exist, even in private institutions. The Committees have put in place Codes of Ethics, Service Charters, and Customer Service Centers. They have tackled administrative corruption, promoted an ethical culture, and enhanced transparency and accountability. To decentralize their efforts, the Commission partnered and collaborated with the Civil Society.

### **Achievements:**

The Commission has successfully partnered with the Zambia Business Forum and Zambia Institute of Directors, leading to the development of the Business Action Against Corruption and Code of Ethics for Small, Medium and Large Enterprises not registered with the Lusaka Stock Exchange; which has improved corporate governance, and enhanced transparency and accountability in all business operations. They have also used printed and electronic media, like in the radio program, 'Governance and You', to educate the public on the governance institutions and their mandates.

A Declaration of Commitment was signed between the Commission, Law Enforcement and Governance Oversight Institutions, which has boosted collaboration and performance of the parties involved. The Commission has also managed to set up sixty six (66) Anti Corruption Clubs in schools and Youth Festivals to promote integrity in the youth. They have administered Anti Corruption lessons in the curricula in collaboration with the Ministry of Education.

In 2010, the Commission and the Governance Secretariat commenced conducting a National Corruption Diagnostic Survey, to provide data on the nature, type and extent of corruption in Zambia; the results will provide a basis for developing new Anti Corruption measures in Zambia. Corruption Vulnerability tests were initiated in six (6) public institutions, to assess corruption prone areas.

**Challenges:**

Hindering the Commissions efforts are the lack of capacity including specialized staffing and inadequate staffing. Also, the practices are becoming more technologically advanced, which requires the technological capacities of all stakeholders to improve.

**Recommendations:**

The Commission has recognized the need to benchmark from other Anti Corruption Commissions and Agencies in the region, on how to deal with capacity building and technological advancement. Political Will, national and international cooperation should be maintained as the fight has gone through four (4) political regimes and three (3) different Legal Frameworks.

## CAMEROON

Presented by Rev. Dr. Dieudonné Massi Gams, Vice-Chairman of CONAC

**Political Framework:**

The National Anti Corruption Commission better known under the French acronym: CONAC. It is an independent public body created by a Presidential Decree in 2006 and placed under the authority of the President of the Republic. There are a numbers of laws and regulations enacted to assist the Commission to fight against corruption, including the Regulation No 01/03/CEMAC/UMAC/CM to prevent money laundering and financial terrorism; the Penal Code, that prosecutes money laundering and misuse of public funds; the Code of Penal Procedures; Article 66, that requires public servants who handle public funds to declare their assets; and the Procurement Code Regulating Public Tendering, to ensure objectivity.

**Mandate:**

The Commission is mandated to fight against corruption by creating specialised structures to curb the ill and arrest of high profile personalities for charges of corruption. It is also in charge of coordinating anti-corruption activities and implementing government's anti-corruption plan.

**Anti Corruption Agencies:**

There are a number of institutions that work along with the Commission against corruption in Cameroon, such as the Supreme State Audits, which is responsible for controlling and drafting financial audits for the use of public funds. There is also the Audit Bench of the Supreme Court, which reviews the accounts of certified public and other practicing accountants. The Commission also works with the National Governance Programme in its efforts to combat corruption. There exists the National Agency for Financial Investigations (ANIF) that works with the Central African Action Group, dedicated to combating money laundering and financial terrorism in the region.

**Initiatives:**

The Commission has developed a National Strategy to Fight Against Corruption, which was adopted in February, 2011 and implemented in April, 2011. Cameroon has signed and ratified the UNCAC and signed the AUCAC. The Commission has also collaborated with technical and financial partners in 2010, to form a Charter of the National Coalition Against Corruption, which is now available. A Rapid Intervention Unit was created in 2010 to encourage victims to denounce corruption.

**Achievements:**

The Commission initiated The Extractive Industries Transparency Initiative in 2005, and so far, it has been accepted by the Government. The fight against corruption is gradually being inscribed in the collective psyche of Cameroonians.

**Challenges:**

The Commission has limited powers, such as: Article 66 does not have whistle blower protection laws; and so most victims of corruption do not come forward to denounce their actions. Added to that, the Commission cannot seize or freeze assets while investigations are ongoing. It also does not have the power to prosecute culprits identified. The Commission lacks adequate human, technical, and logistical resources, as well as equipment.

**Recommendations:**

CONAC relies on the full implementation of the National Strategy to Fight Against Corruption, and the enactment of an Anti Corruption Law that gives them more power, so a solid cooperation with international partners is crucial.

## LESOTHO

Presented by Leshele Abel Thoahlane, Director General, Directorate on Corruption and Economic Offences

**Political Framework:**

The Directorate on Corruption and Economic Offences was set up in 2003, and is powered by the Prevention on Corruption and Economic Crimes Act of 1999. They have total independence; they can directly recruit staff and their budgets are submitted to the Ministry of Finance, but not through the Minister.

**Mandate:**

The Directorate is responsible for mobilizing members of the public in the active participation and involvement in the fight against corruption; which is done through media. It is mandated to prevent corruption by reviewing operational systems of institutions to discover loopholes that may lead to corruption, and developing recommendations. It may also investigate and gather evidence to be presented in court.

**Initiatives:**

Public campaigns have resulted in the establishment of District Anti-Corruption Committees (DACCs) which consist of the public sector, private sector, the civil society (Non-Governmental Organisations and religious bodies) and the Local Government structures. These committees serve as a link between the Directorate and the Public; they hold open meetings and visit government departments that are suspected of corrupt practices. They, furthermore, raise awareness.

The Directorate has signed Memoranda of Understandings with the Internal Audit of the Ministry of Finance and Development Planning, Office of the Accountant General, Office of the Auditor General and the Lesotho mounted Police Service; collectively known as the Directorate Internal Audit System (DIAAL) Partners. Together, they developed Systems Integrity Committees in some government ministries as internal self monitoring mechanisms; if their systems were previously examined. This is to ensure quality service delivery, free from corruption.

**Achievements:**

Many cases of corruption have made it to court, from small traffic fine bribes of M50, to large cases of embezzlement in excess of M1 million. Their efforts have managed to raise awareness in institutions that it is an offence to give, receive or promise an undue benefit or advantage to anyone.

**Challenges:**

The Directorate does not have enough resources, in terms of Finance, Infrastructure and Staffing. The mandate needs to be redefined as it is currently occupied by non-corruption issues like business dishonesty and any other cases that have nothing to do with corruption; resulting in the delay . Upon evaluating and changing systems and policies, some recommendations lead to delayed systems that did not quite work properly, leading to corrupt practices that were trying to be avoided. Also there is a current backlog in cases that are being investigated, resulting in the ripple effect being lost as the cases are not tried on time.

**Recommendations:**

Capacity Building is imperative to overcome the challenges faced by the Directorate. The political Framework needs to be worked on and restructured so that the mandate and powers are outlined clearly for the officers and general public need to be made to fully appreciate their function.

**Points and Reflections:**

It was found that the majority of judiciary backlog was due to lost or misplaced files. The EU has granted assistance in the form of a Case Management System that tracks cases in situations where files go missing. The Directorate, further, has the power to prosecute cases and the power to decide which cases go to court and which do not.

## UGANDA

Presentation by Baku Raphael Obudra, Inspector General of Government

**Demographics:**

Uganda is a landlocked country in the Eastern part of Africa, measuring 236,040km<sup>2</sup> of plateau terrain, rimmed by mountains, abundance of rivers and lakes. The population is estimated at about 32 million, and agriculture is the main economic activity, employing about 80 percent of the population.

**Political Framework:**

Prevention of Corruption Act, 1970 was enacted to address the high corruption levels during the first independence government. The government declared a zero tolerance policy to corruption and has developed several anti corruption strategy policy documents, including the Poverty Eradication Action

Plan 2004-2007; the National Anti-Corruption Strategy 2009-2014, and the National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008-2013. It also has in place a number of Acts that were created to combat corruption, including: The Anti-Corruption Act 2009; The Inspectorate of Government Act 2002; The Public Finance and Accountability Act 2003 (PFAA); The Leadership Code Act 2002 (LCA); The Public Prosecution and Disposal of Public Assets Act 2003; and the Whistleblowers Protection Act 2010.

#### **Anti Corruption institutions:**

There are a number of institutions that work with the Inspectorate of Government that help in the fight against corruption. These are:

- **Office of the Auditor General:** Provided for under the constitution and the Audit Act, 2008; this institution is responsible for auditing of the accounts of central government, local governments, administrative units, private and public organisations and bodies in which the Government has any interest.
- **Director of Public Prosecutions (DPP) & the Criminal Investigations Department of the Uganda Police:** The office of DPP is established under Article 120 of the Constitution of Uganda, and is in charge of all criminal prosecutions in Uganda. In execution of this mandate, the DPP supervises investigations carried out by the Criminal Investigations Department of the Uganda Police.
- **Public Procurement and Disposal of Public Assets Authority:** Created to ensure that there is transparency in procurement.
- **The Directorate of Ethics and Integrity in the Office of the President:** The Directorate represents the political side of the fight against corruption, with a responsibility for initiating national anti-corruption legislation, policies and other initiatives. It is mandated to implement the government's zero tolerance to corruption policy.
- **Ministry of Finance, Planning and Economic Development:** Under the Public Finance and Accountability Act, 2003; the Secretary to the Treasury is designated as the Chief Implementing Officer for the Act, which provides for the regulation of financial management in Government; and prescribes responsibilities of those entrusted with financial management in Government.
- **Public Accounts Committees of Parliament:** The Public Accounts Committee and the Local Government Public Accounts Committee are standing committees of Parliament, as provided for under Part XXIV of the Rules of Procedure of the Parliament of Uganda; which scrutinise the reports of the Auditor General and make appropriate recommendations for consideration of the Plenary (Parliament).

#### **Mandate:**

Under Article 230 of the Constitution and Section 14(5), Inspectorate of Government Act 2002 has the power to investigate, cause investigation, arrest, cause arrest, prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or of public office. It also has power to make orders and give directions where necessary and appropriate; either in the course of investigations or as a consequence of findings. The Inspectorate is also mandated to enforce the Leadership Code of Conduct.

It has the power to enter and inspect premises or property of any department of Government, person or authority and to examine or retain any documents therein.

**Initiatives:**

Uganda has established a special division of the High Court to try corruption cases; which has hastened the conclusion of corruption cases and has dramatically improved the completion and conviction rate for corruption related cases. An Inter-Agency Forum, involving institutions whose mandates have responsibility touching on the fight against corruption, was established for better coordination in the fight against corruption. It includes:

1. The Directorate of Ethics and Integrity, Office of the President.
2. The Inspectorate of Government
3. The Anti-Corruption Division of the High Court of Uganda.
4. The Director of Public Prosecutions.
5. The Office of the Auditor General
6. The Uganda Police Force.
7. Public Procurement & Disposal of Public Assets Authority

Civil Society Organisations such as the Transparency International, Anti-Corruption Coalition of Uganda and the Uganda Debt Network use participatory approach in the fight against corruption. The Inspectorate has also worked with the media to raise awareness on certain rights, support initiatives and as a source of information and education to the public.

**Challenges:**

The Inspectorate of Government has inadequate resources in terms of finance, staffing, equipment and general motivation of the officials that fight corruption. There is also very weak public support as there is a high standard of proof for conviction, resulting in almost no convictions. The work of the Inspectorate is then undermined as the public feel that they are not doing anything.

**Recommendations:**

To combat the challenges, it is essential to put emphasis on prosecution of the corrupt convicts for their actions to cause fear in the like-minded individuals. There is also need to build institutional capacity which includes trained personnel, equipment, coordinated national approach and increased collaboration with other national and international institutions.

**Points and Reflection**

There is no body that monitors crime. When leaders are suspected a restraining order is needed from the court for the AC Act to freeze their Assets.

## **NIGERIA**

Presented by Sir Simeon Olusola Oguntimehin, Executive Member, Independent Corrupt Practices (and other related Offences) Commission ICPC

**Demographics:**

Nigeria is a West African country that gained its independence in 1960. It is populated by over 140 million people; it is known as the most populated country in the sub-Saharan area. It is about 173 768 km<sup>2</sup> and has over 250 ethnics groups in its thirty six (36) states.

### **Political Framework:**

In June 2000, the Corrupt Practices and Other Related Crimes Act was passed. There were some Acts that were not signed and so they fall under the 2000 Act; the law segmented corruption and forced the private and public institutions to enforce integrity in their systems. There are other complimentary and procedural reforms that were put in place to strengthen the AC Crusade; including the Money Laundering Act of 2004, the Public Procurement Act of 2007, the Physical Responsibility Act of 2007, and the Nigeria Extractive Industry Transparency Initiative Act of 2007. The Independent Corrupt Practices and Other Related Offenses Commission (ICPC) came into being in September 2000, three months after the law was enacted. It is the premier Commission of Nigeria that combats corruption.

### **Anti Corruption Agencies:**

There is the Economic and Financial Crimes Commission (EFCC). There is also the National Financial Intelligence Unit (NFIU), located within the EFCC that are the central data collection, and source of financial transactions monitoring systems. The Bureau of Public Procurement (BPP) developed the code of conduct rule that forces the constitutional requirements of asset declaration by public officers, which is effective; it works closely with the Code of Conduct Bureau (CCB). The Public Complaints Commission (PCC) and the National Orientation Agency (NOA), which existed prior to the enactment of the 2000 Act, stood as ancillary institutions.

### **Initiatives**

Enforcement, Prevention and Public Education activities have been mobilized; this has largely covered their mandate. The Public are talking openly and getting involved in eradicating this problem. All efforts in curbing the prevalence impunity breeding of corrupt practices in public offices are being taken; a clear message is being sent to all involved, that it is no longer 'business as usual'.

### **Achievements:**

All the efforts of the Commission are fruitful as the cooperation of Nigeria and the international community is improving. There is also a considerable increase in transparency in some public systems. In the International Corruption Perception Index, Nigeria has improved. It has, furthermore, been removed from the black list of Financial Action Task Force (FATC)

### **Challenges**

The Commission is currently facing slow criminal proceedings. Cases are spending too long at the Courts, in queues. They are trying to push the cases forward, with implying that corruption should take place. They have identified weaknesses in the operational laws that they run by. The suggestions they have made for amendments have been made; but they are yet to be passed. There is also no robust Witness Protection Mechanism to protect whistle blowers and informants. There exists an Immunity Clause; where high level persons may be investigated, but not prosecuted, until they leave their Office. This is

applicable to the President, Vice President, the Governors and Deputy Governors. There is also no support from the Media. They get into cases where high profile officers are being investigated, but do not follow them up, this leads to Public cynicism and impatience. Furthermore, there is an Access to Information bill that was passed but not signed.

### **Recommendations:**

Corruption is the delay of political and social development; therefore, there is need for cross border cooperation and communication regardless of internal level of corruption. Also, international alliance is needed for the countries that do not share borders. Commonwealth should continue to proactively engage and follow AC measures and pay close attention to the prevention measures to be ahead of perpetrators. Nigeria needs to realize that governance needs to be open, accountable and relevant to the social wellbeing of our people.

### **The Economic and Financial Crimes Commission (EFCC)**

Presented by Dr. Farida Waziri, Chairman of EFCC

#### **Mandate:**

The Commission was set up to stop financial crimes, especially Money Laundering, Fraud, Cyber Crime, Internet Fraud and funding of global terrorist activities. They investigate cases and persons at all levels; from high profile politicians to low profile businessmen.

#### **Initiatives:**

In 2008, the Anti Corruption Revolution (ANCOR) was launched. Attention was sought of Former Botswana President, Festus Mogae; who gave a Key Note Address at the launch. Furthermore, during the recent elections, Mr. Mogae was present and monitored the whole event. Also, Price-Waterhouse Coopers was consulted on how to move the commission forward as there were a lot of problems with their predecessors; credibility was almost lost as they cavorted with the opposition party. Their recommendations lead to the increase in salary, hazard allowances and insurance of Commission officers; as they became targets. More support was sought from the Inspector General of Police, in terms of the provision of bomb detectors, bullet proof vests and helmets. Even if their lives are threatened daily, they are still determined to make a difference.

The Commission recruits and trains young staff and has also collaborated with the banking sector so that they may educate the public in issues of interest rates, among others. The NFIU, which falls under the Commission, is a member of the Edmond Group; it is the only West African member state.

#### **Achievements:**

Education is their top success story; they have managed to instill a level of corruption reporting system among the people in Nigeria. Added to that, because the law does not allow persons to stand for elections, they found ways to speed up trials and investigations of high profile peoples. The Revenue Profile of Nigeria has increased due to its collaboration with Inland Revenue Services and the seaport.

They have managed to record success in their efforts, in terms of the number of convictions, investigations and those in trials. To date, they have recorded over 1500 trials, over 600 convictions and over 700 cases that are being investigated. These statistics are from cases involving politically exposed persons, cases of money laundering, fraud and cyber crimes. The cases that stay on trial may stay in the courts for six (6) months but are immediately convicted.

They have also managed to make significant recoveries from different types of crimes, including the Banking sector, US\$4.3 billion, of which US\$242 million was returned to the Brazilian government from a banking fraud case; Taxation, US\$23.3million; Multinational firms, US\$240 million; and Local firms, US\$10 million. They also recovered up to US\$903.3 million in other cases.

### **Challenges:**

The Commission faces a strength problem; they have 1800 staff, seconded staff and core EFCC staff. This is not enough to cover the population of over 140 million people. Also, since the law of Nigeria does not allow a person to run for elections, if they have been convicted of a crime in a court of law, some of the high profile people would drag cases and get into office so that they are untouchable. Every year, US\$148 billion is stolen from Africa by political leaders, the business elite and civil servants; who work in cahoots with the Banking industries of Europe and other developed economies.

### **Recommendations:**

The Transparency International should not write Nigeria off, and push back as they feel Nigeria is corrupt, they should help out. If they have evidence of certain transactions, they should repatriate the money back to Nigeria. All off shore accounts should be closed, to cancel any incentive to steal. There is dire need for working relationships to be developed with the international community's to track transactions, assets and suspected persons, as this is a battle that cannot be fought alone.

### **Points and Reflection**

There is a need for Nigeria and Ghana to engage more on issues of cross border corruption and for a forum to be set up; to start the communication between the 2 countries, as by the very proximity of the countries to each other, there should be a better relationship with Ghana. Asset recovery started since the inception of the Commission and most of the successes were recorded since 2008.

## **KENYA**

**Presented by Prof. Jane Onsongo, Assistant Director Preventive Services Directorate**

### **Political Framework:**

They have a number of Acts that were put in place to combat corruption. These are: the Anti Corruption and Economic Crimes Act, 2003; the Public Officers Ethics Act, 2003; the Public Audit Act, 2003; Government Financial Management Act, 2004; the Public Procurement and Disposal Act, 2005; Witness Protection Act, 2006; Proceeds of Crime and Anti-Money Laundering; and the Penal Code.

The Anti Corruption and Economic Crimes Act was put in place to establish the Kenya Anti Corruption Commission. The Act does not define corruption but states the crimes that constitute to it. It is independent and reports to Parliament.

**Mandate:**

It is mandated for corruption prevention by examining systems, practices and procedures of public bodies; educating the public; investigating cases and reports on request, complaint or on own motion; and prosecution of the corrupt.

**Initiatives:**

It has collaborated with oversight bodies to combat corruption and is working on a monitoring and evaluating conducting surveys that will be monitored and evaluated.

**Achievements:**

In 2009/10, the Commission has recovered up to KSh1.78 billion and managed to disrupt corruption networks that would have resulted in loss of public funds. They have initiated a Public Service Integrity Program that accounts for five percent (5%) of the eradication of corruption, an Integrity Testing Program and ILACOM (Intelligence Led Anti Corruption Control). As well, their National Anti Corruption Plan brings together various sectors under the Kenya Integrity Program and the annual Integrity Conference. They have managed to educate all regions using Regional Outreach Clinics, and have partnered with civil, faith based and community based organizations.

**Challenges:**

One hindrance they face is the lack of prosecutorial powers. Also, corruption is deeply rooted and proves difficult to quickly eradicate. Investigators and witnesses are continuously intimidated making it difficult to report or investigate cases. There is abuse of prosecution powers which results in the delays in processes, also because of the poor coordination between the Attorney General and the Commission; their results in the lack of political and judicial will.

**Points and Reflection:**

Public servants tests are conducted when there are complaints, undercover officers are sent to investigate. There are 2 types of tests; when complaints are received, and random tests, to determine whether a service is being delivered properly.

## **RWANDA**

Presented by Bernadette Kanzariye, Deputy Ombudsman, Office of the Ombudsman

**Demographics:**

Rwanda is a small landlocked country of 26 338 km<sup>2</sup>; bordered by Uganda, Burundi, Tanzania and the Democratic Republic of Congo. It has an estimated population of 10 million people.

**Political Framework:**

The Office of the Ombudsman is an independent public institution created by the constitution in 2003. It is made up of the Chief Ombudsman and two (2) Deputy Ombudsmen; who are proposed by the Cabinet

and vetted by the Senate. The Office follows laws that were enacted to layout their mandate; including the Organic Law on Leadership Code of Conduct, the Penal Code and the Fiscal Code.

Rwanda is one of the African countries that ratified the UNCAC, OECD Convention on Combating Bribery, and the Africa Charter against Corruption and related offenses.

**Anti Corruption Agencies:**

The Office works in conjunction with the National Police, the Rwanda Revenue Authority, the National Public Prosecution Authority, the Office of the Auditor General, Civil Society, the Rwanda Public Procurement Authority and the National Anti Corruption Advisory Council; which includes the Ministry of Local Government, Ministry of Justice, National Security Service and Supreme court – to decentralize their efforts to district level.

**Mandate:**

The Office is mandated to prevent and fight corruption in Public and Private Institutions. They also act as a link between the people and all institutions. They receive asset declarations from senior officials who handle public property, and reports from individuals and institutions. They also regulate the behavior of certain officials by monitoring the implementation of the Leadership of Code of Conduct.

The Office coordinates the National Anti-Corruption Advisory Council and conducts surveys and operational audits to identify corruption loopholes, levels of corruption and their tendencies. If proposed by the Chief Ombudsman or high authorities, they carry out preliminary investigations on cases of corruption or general maladministration.

**Initiatives:**

The Ombudsman has signed Memorandums of Understandings with Transparency International Chapter Rwanda and the Rwanda Initiative and Sustainable Development (RISD) to promote transparency and to deal with land disputes, respectively. It is also a member of East African Association of Anti Corruption Authorities (EAAACA), the International Association of Anti Corruption Authorities (IAACA) and the African Ombudsman Association (AOA).

**Achievements:**

The Ombudsman has managed to instigate the establishment of Anticorruption clubs in secondary schools and higher institutions of learning that have further decentralized the efforts of the Office. They have also inaugurated an annual Anti Corruption Week that ends on the International Anti Corruption Day, the 9<sup>th</sup> of December, where the clubs demonstrate their efforts.

The Rwandans have now developed a culture of reporting cases and using the measures and procedures recommended by the Office, resulting in the general reduction of cases. The transparency and asset declaration measures have prevented any future attempts to be corrupt as public servants have grown a fear of being caught.

**Challenges:**

Among the challenges faced by the Office, are the limited resources. Also, some institutions are still unwilling to employ the recommendations set by the Office. The law does not offer the Office enough power; like the power to prosecute those convicted. One of the major challenges to the country, as a whole, is that the people regard corruption as a norm, and is somewhat difficult to change that culture.

**Recommendations:**

To curb the challenge of limited resources faced, the Office is negotiating the increase of the operational budget with the Government. Amendments to the law that provides the Office with its powers are being done, so that the Office is provided with powers to follow up cases from report, to investigation to court. Partnership with other institutions is necessary to fight the corruption and maladministration. The office has intensified sensitization of the population on reporting and rejecting corruption, by drafting the Whistle blowers Protection Act and continuously raising public awareness.

**Points and Reflection**

After investigations, results are sent to the AG's office because the Ombudsman does not have prosecutorial powers.

## MOZAMBIQUE

Presented by Hendriques Andre', Public Sector Reform Program

**Political Framework:**

The Anti Corruption Commission was established in 2004 under Law 6/2004. It has been set up under the Attorney General and is composed of a Director and Investigators.

**Mandate:**

It has adopted the three pronged approach; to prevent corrupt practices, to educate the public and to investigate cases. All prosecutions of cases investigated are done through the Attorney General's Office.

**Initiatives:**

A National Survey on Governance and Corruption was conducted. Their findings identified that the five (5) sectors that were most corrupt are: the traffic cops, customs, judiciary, education and health. Based on this, an Anti Corruption Strategy on Governance and Corruption was established. In 2011, a second National Survey on Governance and Corruption was conducted; the results are pending.

To handle the Prevention branch, the Commission has encouraged the involvement of other entities, being Private and Public Bodies. They have also developed awareness campaigns that shall be conducted to Civil Servants. In their efforts to educate the public, the Commission has signed Memoranda of Understanding with all forms of Media, and has developed Multimedia campaigns. They have also established Hotlines that the public may use to report cases. The Commission also conducts Seminars in schools, hospitals, the Police Grounds, Customs Offices and any other sectors where Corruption occurs.

The Commission has started to build its capacity by developing training programs and getting more staffing. They have also decentralized by expanding to other provinces. They have developed a proposal to widen mandate to include prosecution, so that they are fully independent; as some corruption cases have been investigated and are awaiting prosecution at the AG's Office.

There are a number of laws that have been drafted which are currently awaiting parliament approval; on declaration of assets, protection of witnesses and whistle blowers, conflict of interest and anti-money laundering.

**Challenges:**

The Commission faces inadequate capacity in terms of technical knowledge and skills, human resources, infrastructure and equipment. Furthermore, they have limited Financial Resources. They are also waiting for the enactment of laws that shall power the Commission further.

**Recommendations:**

To build their capacity, the Commission has to develop training programs for their staffing and also to engage with relevant partners for funding. They furthermore, need to continue to work with the parliament and other stakeholders to expedite the approval of laws.

**Points and Reflection**

The ACC only has the mandate to investigate cases, and since one party has the majority in the parliament and the power to change the constitution, there is no separation of responsibilities; this causes a conflict of interest; and hence the reluctance to approve the laws. The ACC is working with pressure groups, media, donors and other partners until the law is changed.

## SWAZILAND

Presented by Mrs Lillian X. Zwane, Deputy Commissioner Administration

**Demographics:**

Swaziland is landlocked by South Africa and Mozambique and has an estimated population of 1.2 million people.

**Political Framework:**

The Anti Corruption Commission of Swaziland is a government department, empowered by the Prevention of Corruption Act No. 3 of 2006 and is made up of a Commissioner, 2 Deputy Commissioners, Administration and Operations Managers.

**Mandate:**

Under the Act, the Commission is mandated to prevent, investigate and educate the public on corrupt practices.

**Initiatives:**

The Commission has appointed Consultancies that shall review organizational structures, skills and salaries. It has also partnered with agencies, such as UNODC and UNDP that shall provide in-house training. The Commission has developed crucial documents and policies, such as a Strategic Plan, and has made amendments to the Acts. It has also developed a Corruption Perception Survey. The National Integrity System, chaired by the Commission, was developed in 2006, and is constituted by the Public,

Private and Civil Bodies; is mandated to oversee the prevention and battle against corruption; as well, to promote transparency and accountability.

**Achievements:**

The Commission has managed to recruit and train, where necessary, specialized staff in investigation, corruption prevention and public education. They have also established a task force with KPMG, the Police, the Central Bank, the DPP and the Auditor General. They have also introduced an Anti Corruption curriculum in the schools, coupled with good coverage in printed and electronic media; to educate the public

**Challenges:**

Because the Commission is a Government department, it is not independent and only operates within the Civil Service parameters and does not cover the Private sector. Although Swaziland is a signatory to three (3) international instruments, Swaziland does not gain, because the instruments benefit multiparty states. The instruments are not fully ratified. Also, the present Acts have some shortcomings that need to be rectified; such as the inability to prosecute cases, inadequate protection of whistle blowers and the inability to seize or freeze assets during investigations.

There exists another agency known as the Human Rights & Public Administration Commission which is also mandated to investigate and eliminate corruption. This questions the Anti Corruptions Commissions position, which brings in a negative effect on investment opportunities. The Commission is also at infancy stage and requires strategies to make it viable in donor's eyes; that presently do not support the Commission at all.

There are also inadequate finances, skilled manpower, infrastructure and resources to attract and maintain competent skills. Training of the staff is expensive and lengthy due to bureaucratic processes.

**Recommendations:**

The Commission is currently lobbying for the ratification and signing of the international instruments on corruption as well as the legislative reforms including Access to Information and the Whistle Blowers Protection Act. It is also petitioning for financial donors from cooperating partners including UNDP, UNODC, EU and the World Bank

It is imperative to realign the Commissions strategy given the current financial constraints faced by the Swaziland Government; who signed a Memorandum of Agreement with South Africa requesting technical assistance in mentoring, capacity building and attachments. Also, the matters that are handed over to the DPP should be of high priority. There is also a need to revive the National Anti Corruption Forum on Corruption, to continue prevention and education workshops. A framework for Anti Corruption needs to be developed.

**Points and Reflection**

Having two institutions with powers on corruption is controversial. The Human Rights unit has more powers as they were in the Constitution, and some are of the opinion that the ACC Unit should work under the HR unit who are currently under the Ministry of Justice. A clash exists because both are able to investigate.

## **GHANA**

Presented by Charles Nii Adama Akrong, Deputy Executive Director, Economic and Organized Crime Office

### **Political Framework:**

The Economic and Organized Crime Act of 2010, was enacted because Ghana's previous law that powered the Serious Fraud Office (SFO), was limited to investigate only certain types of crimes, as some of the crimes did not exist at the time the office was initiated. The Economic and Organized Crime Office, which took over from the SFO, reports directly to the Attorney General and the Minister of Justice for policy direction.

### **Anti Corruption Agencies:**

There are a number of agencies that are mandated to prevent and investigate corruption. These include the Ghana Police service, that unfortunately does not adapt to the new types of crimes that emerge; the Financial Intelligence Centre, that was set up under the Anti Money Laundering Act of 2008 (Act 749); Civil Society Groups; Ghana Coalition against Corruption; the Auditor General's Office; and the Controller and Accountant General's Office, as well as the Commission on Human Rights and Administrative Justice, that falls under the Constitution of Ghana

### **Mandate:**

The Commission is mandated to investigate crimes that pertain to stealing, diversion, fraud, extortion, forgery, cyber crimes, money laundering and other economic crimes. It is also mandated to investigate human trafficking, murder, smuggling, illegal dealings in narcotics, sexual exploitation, illicit arms trafficking, counterfeiting and piracy of products, insider trading and market manipulation, participation in organized crime, assault, armed robbery and tax fraud; as well as crimes for which punishment is no less than one year.

They may also recover assets and proceeds of crime, by search and seizing, freezing and confiscation. Their Commission is to prevent correlative crimes, monitor criminal activities, disseminate information and cooperate with national and international institutions mandated to perform the same tasks. The Office is mandated to prosecute all the crimes they investigate; however, they lack the capacity to do so. They may receive cases referred to them by the Financial Intelligence Center.

### **Initiatives:**

To combat the new types of crimes such as tax fraud, certain units were created; the Customs Unit, the IRS and the VAT Units were developed. It is currently developing units and public education systems. It is currently collaborating with Inter Government Action against Money Laundering in West Africa.

### **Challenges:**

The SFO was not fully set up; poor procedures, no S.O.P's, no discipline, no training schemes, no proper orientation and focus, no proper internal supervision. This made the transition to the EOCO difficult as they had no foundation. The Office also faces a challenge to get their staffs that lack training, to adopt the changes in procedures. There is no infrastructure, and inadequate equipment that the Office can occupy and use, respectively.

### **Recommendations:**

120 new trained officers are to be recruited in 2011 to tackle the staffing issue. The Office has also drafted S.O.P's that shall be disseminated and LI's that shall be in place by the end of 2011. There is also the need for Political Will. MoU's between the Office and other Institutions need to be signed to enhance work and cooperation. The Office also needs a substantial investment for the required infrastructure, accommodation and equipment.

**Points and Reflection**

Swaziland has a package of laws which covers the declaration of assets. The Low numbers of cases investigated are due to a shortage of investigators. There was a commission that existed before this one, but it had difficulties, and so they re-introduced a new one. And there are many cases.

## CHAPTER 5: The Development of an Anti Corruption Agenda for Africa

### The Implementation Framework for the African Agenda

Chaired by Dr. Roger Koranteng and Facilitated by Phil Mason.

The Implementation Framework for the African Agenda is a direct output of the 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti-Corruption Agencies in Africa held in May 2011 in Gaborone, Botswana. The Framework was developed in line with the Gaborone Declaration on the African Agenda. Delegates came up with this framework as a means of aligning Anti-Corruption efforts in Commonwealth African countries as a means of integrating the African Agenda while at the same time tackling issues of inequities raised by ACA's in member states, such as legislation, funding, education and other areas of disproportion identified by ACA's as hindering their fight against corruption and chartered a path to achieve the goals of the Conference noting the good interagency and international cooperation already in existence.

This framework will guide Commonwealth African members as they plan programmes and activities for 2011 – 2012. The framework is structured in a manner that enables areas of focus or concerns identified and outlines how it can be achieved, who should or will do it, the progress of these efforts and the achievements monitored between now and the next Commonwealth Africa ACA conference, in 2012.

#### Key Points

To get the best out of the gathering and ensure that there were real outcomes, and recognizing the unique set of values and traditions the Commonwealth offered particularly in the legal forums, this network would facilitate drawing on the common legal heritage between the Anti Corruption Agencies', whilst matching their strengths and weaknesses to partner them or link them to other AC's strengths to weaknesses where the outcomes would be measured.

Recognizing that all Anti-Corruption Agencies are facing challenges in some areas, each agency agreed on listing three top achievements and three main areas where they felt that needed the most assistance. The results were to be used to twin their ACA's to one another in order to get cooperation and cross consultation going between them. The following key areas guided the discussions, these were:

- International Cooperation; some AC have good experience in international cooperation, such as areas of asset recovery and international legal assistance from other countries and whilst some Anti Corruption Agencies may have very good political relationships, which enables them to succeed, whilst some countries may need help.
- Interagency cooperation, between agency and line ministries in their countries.
- Prevention and work with line ministries,

- Public engagement with civil society and securing public support for Anti-Corruption work
- Self accountability, how to make AC accountable, annual reports that only get read by a certain number of people, and other ways that AC's can make themselves accountable to society
- Media engagement, how AC's engage with media to temper expectations.
- Managing hot lines
- Securing resources for agencies.

## Major Targets

### Monitoring

In recognition that no AC can succeed in isolation, participants considered areas such as working with parliaments, public accounting committees and coalition building within their countries. The outcomes from the delegation were populated onto a matrix<sup>i</sup> which would be used to identify areas of collaboration and knowledge sharing. For each country the following was detailed;

- Areas of success and expertise that can be shared
- Areas of Weakness and needs that successful ACA's could assist in or advice on

Following the election of the Chair to the African Association for the next year and the acceptance of the five country Interim Committee, The Committee were tasked to lead and assist in putting together proposals either as a Committee or individually, with the assistance and support of the Commonwealth Secretariat who will play the role of facilitator in the interactions and support the efforts of the Chair and the Committee, using the Matrix,;

- to coordinate the progress
- to look into issues of structuring, concepts and approaches that the AC's are taking to address issues such as legal problems, challenges in prosecution and weakness in the laws and other gaps in member countries
- to propose as to who might twin/match with whom based on those needs identified in the matrix by mid June 2011 and report on progress at the 2012 conference

### Measurements

The meeting agreed that;

- The DCEC work with Don McKenzie on a joint exercise to address the challenges of the volume of measuring the level of corruption and to measure the impact that the ACA are making on corruption and the public attitudes in Commonwealth Africa.
- The UNODC methodology which has been used successfully for producing similar reports on the state of corruption in African countries be adopted as proposed by Don McKenzie and with advice through Phil Mason and other international experts, persuade AUSAID to co fund it
- Don McKenzie through DCEC and the Commonwealth Secretariat would refine the proposal for funding.

## Publicity

It has been found that putting forward good stories of achievements is a useful tool to show the public generally and globally that there is success in African Anti-Corruption efforts therefore the meeting agreed that;

- The Commonwealth Secretariat undertakes to compile all the success stories and group stories of achievement submitted to them by the Commonwealth African countries over the next year, for publishing into an annual report in the form of a booklet or hand book on African Anti-Corruption efforts and successes which will also include impact of the collaborations.
- The Commonwealth Secretariat will lead this effort and AUSAID through Don McKenzie will be approached to fund the effort. Timeline set to achieve this target, 2012.

## What can an Association of African ACA's achieve

This association will offer an opportunity to all member countries by providing a platform from which to propose to their respective governments, how they can be better. To identify what the biggest obstacles that stops Anti-Corruption agents are, what frustrates the system, and how they, as a small community with likeminded views about how to operate in their own countries; can collectively propose how that one change could be made to make it better and present it to the political leaders by stating;

- The issues that are being dealt with
- The traditional obstacles that are faced
- That the Commonwealth is the right agency to do this

The Association could report back on the progress to this meeting in 2012

## Cross cutting issues Observed:

Amongst the challenges was the common problem of the

- fragmented approach of agencies recognizing and dealing with corruption
- lack of the prosecutorial authorities with most AC's,
- different agendas with regards to fighting corruption,
- lack of Government's will
- Need for ACA's to work together in order to identify the problem areas in order to cohere so that the Commonwealth African Anti-Corruption Agencies work together in order to go beyond sharing ideas and networking.

## Anti-Corruption, its Definition

The meeting noted that there is a need for clarity in what the laws in the regions will allow to be tried for as there are some acts which at the special or cultural level may be corrupt, although corruption is not clearly defined. It was proposed that a cross learning opportunity exists with the forthcoming reviews of compliance with United Nations Commission on Anti-Corruption (UNCAC), which will offer an understanding of the definition of Anti-Corruption, and better define understanding of offences to be regarded as corruption.

It was further argued that the Anti-Corruption Agencies can learn from each other's UNCAC reviews as UNCAC will define the legal diagnosis of what each country looks like in compliance with UNCAC and the operational framework of UNCAC can be used to engage with donors and other partners within their government, noting that not everything that falls under UNCAC falls under Anti-Corruption, and because some offences fall under Judicial Ministries whilst other's fall under the Interior Ministries or Law Enforcement;

- Collaboration within the various agencies is crucial, therefore, ACA's were advised to learn from the reviews as it would lead to a greater collaboration, although UNCAC is a non Commonwealth process, the outputs from the reviews can be used to improve collaborations.

## Capacity Building

Criminals have the capacity for flight from country to country so an initiative is needed for countries to formalize international cooperation, as in most African countries; cooperation at international level involves protocols at state level and a Commonwealth wide cooperation is required to ease the procedure.

To address the challenges of internal capacity building and investigations in ACA's it was agreed that;

- The Commonwealth Secretariat will develop a reference hand book on best practices, on recurring offences and corruption related offences so that emerging institutions have a document to guide the investigators.

## Specialized Training

The meeting conceding that Anti-Corruption Agencies are a new phenomenon to Africa and as a result there are very few organizations where specialized training in Anti-Corruption is available resulting in Agents being sent to International academies who have training programmes, noting that except for countries such as Nigeria who have built academies for Anti-Corruption training, the sub region contained some rudimentary structures in places such as Tanzania which can be strengthened and recognized that a more collaborated effort can only be strengthened through training.

The meeting therefore agreed that:

- Botswana will provide their training facilities and some combined training, through its Police College and Botswana Public Service Training institution
- The Commonwealth Secretariat will source specialists to conduct the training.
- Members would send a clear list of the training needs detailing the precise specialist training required such as forensic accounting, investigation, evidence management and a range of other specific aspects for consideration by the Commonwealth Secretariat
- The Commonwealth secretariat will identify the biggest area of need and provide the capacity and find the specialist resource to provide the training.
- The training requirements lists would be submitted by the various member countries to the Commonwealth Secretariat by mid June 2011.

It was further agreed that:

- DFID would support people needing training in Vienna for IACA, once AICA defines what IACA can deliver, DFID would be taking requests for training although other options of training will be considered in terms of proximity, etc before requests are approved.
- DFID would look into a resource person from Singapore, for Forensic Investigation Training, whom they could sponsor as part of their support for Commonwealth partnerships.
- Botswana and Tanzania to send an announcement to all the members as soon as their training facilities can be used and the right resource persons are available to train; inviting the Anti-Corruption Agencies to send their personnel for training.
- Members would look into internal agencies within their countries, such as the banking sector, who could possibly offer training, and other such institutions.
- Members to review the possibility of partnering with private sector organizations such as KPMG to conduct training in areas such as Forensic Auditing and approaching other funders such as the World Bank, African Development Bank to sponsor such training.

Noting, that whilst the UNCAC reviews of other countries will provide an opportunity for Anti-Corruption Agencies to learn from others reviews and from those findings, to make changes and improvements before they themselves are reviewed, the first round of the UNCAC reviews will only be looking at certain aspects such as Law Enforcement and International Cooperation, whilst Prevention and Asset Recovery will be reviewed after another three to four years. In the interim, countries would need to carry out their own assessments to analyze where they comply, and for Anti-Corruption Agencies with a common position, would need to collaborate as Commonwealth and tap into UNCAC for technical assistance and practical experience to benefit.

## Conclusions

The commonwealths Secretariat's first and foremost role and function is to service the Commonwealth member countries, to help ensure that they deliver on their mandate and to help the member countries community of practice and to bring them together with the various regions such as the Commonwealth Caribbean region, as their aspect of an oversight agency.

The Commonwealth secretariat having participated as oversight agents in communities of practice on the continent through various organs such as the AFROSAI-E and IOMA (who are concerned with the Auditor General and Supreme Auditor Institutions, and the Ombudsman for Africa, who not only meet regularly but have a very solid association) and recognizing that the Anti-Corruption Associations have no such association in Africa, proposed the establishment of a Commonwealth Africa Association of Anti Corruption Agencies. The proposed agency must:

- Have survival value;
- Meet regularly, with different objectives, to take stock of what was agreed in previous meetings, in order to evaluate progress of targeted goals and objectives the Agency has set out
- By virtue of being the Head of an Anti Corruption Agency in a Commonwealth African country, automatically entitle the Head to be a member.

The commonwealth in recognizing the various and similar organizations such as the SADC and the East African sub regional pillars on AC, further encouraged the delegation to cooperate with these associations as it would ease the work of getting the heads of AC organizations together in future.

The delegates having discussed the outcomes of meetings of the East African Anti-Corruption Association who had realized that there was a need for the establishment of a continental Anti-Corruption platform to address issues of corruption in Africa and for sharing experiences and they were in the process of convening an all Africa meeting in Bujumbura in June 2011, with the objective of forming a Pan African Association and agreed that because the commonwealth countries share a common public administration and a common mindset about legal proceedings, and democratic values which genuinely have areas that are common, and common understanding as a basis on which to start working; agreed that

- the formation of a Commonwealth African Association would not only set an excellent example to the francophone countries but that such an Association, based on the Commonwealth tradition, with a common structure and similar problems will enable the members to understand each other, share experiences better and share best practices
- As long as the Heads of Anti-Corruption Agency members in this association are strong, they would strengthen the other Associations already existing or to be formed in the various sub regions.

### **Election of the chair of the association**

The delegation further proposed that the Association required a chair that would manage and be the focal point in terms of the leadership of the new Association for the ensuing year

The delegation felt that given that as this was the first conference, and the president of Botswana had taken the time to open the meeting which was also being hosted in Botswana, Botswana would have experience in organizing such an event, from which the next chair can benefit through cross consultation and elected Botswana as interim Chair of the Association for the period 2011 - 2012. This felt, would allow enough time for the other countries to prepare to chair 2012 – 2013.

Key recommendations for the future, that;

- As this was an interim process which would be formalized at the next conference, Botswana, should chair until the next conference in 2012.
- Every host country, should chair the Association for the ensuing year.
- That every country should chair in rotation, and further that during the term of the chair, the government of the chair country should be called upon to be more involved in the fight against corruption according to the objectives of the Association and the problems outlined in the summary by each country.
- The chair with assistance from the Committee should present the draft constitution for the Association, to the association at the next meeting in 2012 where the conference will discuss the constitution for adoption.

## The Responsibilities of the Chair

The meeting agreed that;

- Until the next meeting, Botswana should have both the chair and house the Secretariat for purpose of administrative work on the initial documentations,
- Although, for the next meeting the chair would rotate, the secretariat should be permanently based in Botswana.
- The Commonwealth will continue to play a key role, working closely with every subsequent chair, and facilitate the next conference, with the goal that in a number of years, the association will be able to stand on its own.

The meeting further agreed that the responsibilities of the interim Chair would be to

- Draft and propose a Constitution for the Association
- Draft and propose a Memorandum of understanding
- Chair in collaboration and with assistance from an Interim Committee to be known as the Executive Committee.

## Interim Executive Committee

The meeting agreed that the Chair will have a number of administrative tasks for which assistance will be required, and so a secretariat or committee should be formed so that the chair can cross consult and council for the purpose of brainstorming, when drafting the Constitution and other areas that provide the foundation for the Association;

It was proposed that three or more members volunteer to be members of the Executive Committee for the purpose of doing the spadework leading to the next conference.

And that the nominees, once selected, will be henceforth be permanent members of the Executive Committee.

The meeting accepted the following nominees to the Executive Committee;

The Executive Committee Members

1. Botswana - Chair
2. Zambia
3. Uganda
4. Mauritius
5. Sierra Leone

## Host for 2012

In consideration of the regional balance, it was noted that both the current host and the volunteer host for the next conference in 2012 (Zambia) were both from SADC; Swaziland and Mauritius also volunteered but were unable to confirm as they required seeking the mandates of their governments. However, only one country was able to commit in order to meet the commitment required to host the next meeting, a vote would be conducted. It was agreed that;

- Acknowledging that Zambia has a made a firm offer and have the constitution to do it, would give the other countries enough time to organize themselves to volunteer to host at the next meeting. Zambia would host the 2012 meeting.
- The Constitution must address the issue of Hosting.
- As some countries did not know what the logistical requirements were to host and could not undertake to host without knowing the resources required, or what commitment levels are needed to organize such an event, the Commonwealth Secretariat undertook to meet most of the costs until such time the Association can fund itself
- Taking the cost levels into consideration, may be required to spend up to or over P 100, 000.00 or its equivalent.
- The Host country must ensure that the host country secures their President's support the event.
- Pledges are noted by Sierra Leone and Nigeria, as both have volunteered to host the 2013 conference.

## Statement by Founding Chair: Association of African ACA's

In her acceptance speech, Rose N. Seretse, Head of DCEC Botswana expressed her gratitude to the participants for their attendance and felt that the conference had offered a great learning opportunity for all the participants who shared the challenges and successes faced and cautioned the Interim Committee that as they would be on a learning curve a lot of assistance would still be needed in the form of ideas and support from the other Commonwealth African members.

## CHAPTER 6: COMMUNIQUÉ

### The Gaborone Statement

#### **1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011**

1. We, the HEADS OF ANTI CORRUPTION AGENCIES IN AFRICA from the Commonwealth African member countries, meeting in Gaborone, Botswana from 23 – 26 May 2011,
2. Aim to;
  - Provide top officials with a regional network to establish operational contact and for the exchange of international good practice, new thinking and regional knowledge and experiences;
  - Advance ‘whole of government’ approaches for improving Anti-Corruption efforts; and
  - Provide an opportunity to examine the complexities of the role of Anti-Corruption agencies in the contexts of national and international development goals.
3. Commending the government of Botswana and the common wealth secretariat for starting the initiative to bring together the commonwealth heads of anti corruption agencies,
4. Recognizing with deep gratitude the invaluable support and the warm hospitality provided by the host government of Botswana, not least the honour of the presence of H. E. The President of the Republic of Botswana Lt. Gen Seretse Khama Ian Khama at the opening ceremony.
5. Having considered the magnitude of the problems confronting Anti-Corruption agencies generally,
6. Noting the need to take more concrete measures in combating corruption on the continent,
7. Having exhaustively discussed the objectives and being satisfied that a full exchange of views had to take place on the goals of the conference,
8. Agreed and adopted the following resolutions, that;
  - Delegates urge member countries to give effect and further strengthen the fight against corruption,
  - The Commonwealth, working with the United Nations and other international organizations, play a lead and active role in supporting and coordinating the Anti-Corruption Agenda in Africa,
  - Peoples of Commonwealth Africa are urged to provide public support to anti corruption agencies, improve multi stakeholder approach to the fight against corruption,

- The Commonwealth African countries form an Association of Commonwealth Africa Anti-Corruption Agencies.

9. Noting further and welcoming the variety and diversity of experiences shared,

10. Agree:

- To return to strengthen their agencies by implementing the action plan.
- To support Anti-Corruption work anchored in the highest ethical principles aligned with practices of good governance, to achieve poverty reduction, economic growth and political stability.
- To meet annually and welcomed the offer from Zambia to consider hosting the next Conference in 2012 in partnership with the commonwealth secretariat.

In Gaborone, Thursday, this 26<sup>th</sup> Day of May 2011.

## Fraud Prevention Check list

Fraudsters often exhibit behavioural warning signs of their misdeeds. Red flags - such as living beyond one's means.

Auditors and employees alike should be trained to recognize behavioural signs that a fraud is occurring and encouraged not to ignore such red flags, as they might be the key to detecting or deterring a fraud.

### Behavioral red flag perpetrators

1. Living beyond means (43.0%)
2. Financial difficulties (36.4%)
3. Control issues, unwillingness to share duties (22.6%)
4. Unusually close association with vendor/customer (22.1%)
5. Wheeler-dealer attitude (20.3%)
6. Divorce/family problems (17.1%)
7. Irritability, suspiciousness or defensiveness (13.6%)
8. Addiction problems (11.9%)
9. Refusal to take vacations (10.2%)
10. Past employment-related problems (9.3%)
11. Complained about inadequate pay (7.9%)
12. Excessive pressure from within organization (7.9%)
13. Past legal problems (7.3%)
14. Instability in life circumstances (7.5%)
15. Excessive family/peer pressure for success (5.1%)
16. Complained about lack of authority (4.6%)

### Fraud Prevention Check List

This checklist is designed to help organizations test the effectiveness of their fraud prevention measures. Given the high costs of occupational fraud, effective fraud prevention measures are critical. Organizations should implement a fraud prevention checklist similar to that below in order to help eliminate fraud before it occurs.

1	Is ongoing anti-fraud training provided to all employees of the organization?	
2	Is an effective fraud reporting mechanism in place?	

3	To increase employees' perception of detection, are the following proactive measures taken and publicized to employees?	
4	How is the management climate/is the tone at the top one of honesty and integrity?	
5	Are fraud risk assessments performed to proactively identify and mitigate the company's vulnerabilities to internal and external fraud?	
6	Are strong anti-fraud controls in place and operating effectively, including the following?	
7	Does the internal audit department, if one exist; have adequate resources and authority to operate effectively and without undue influence from senior management?	
8	Does the hiring policy include the following (where permitted by law)?	
9	Are employee support programmes in place to assist employees struggling with addictions, mental/emotional health, family or financial problems?	
10	Is an open-door policy in place that allows employees to speak freely about pressures, providing management the opportunity to alleviate such pressures before they become acute?	
11	Are anonymous surveys conducted to assess employee morale?	

**The most cost-effective way to limit fraud losses is to prevent fraud from occurring.**

## CONFERENCE PROGRAMME

### 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011

PHAKALANE GOLF ESTATE, GABORONE, BOTSWANA.

#### Monday 23 May 2011

- |             |  |
|-------------|--|
| 0730 – 0830 | Registration   |
| 0830 – 0915 | Official Opening   |
| 0915 – 0945 | Tea Break  |
| 0945 – 1145 | Presentation: Approaches to corruption control; the role of Oversight Agencies |
| 1145 – 1200 | Discussions  |
| 1200 – 1300 | Country Presentations and Discussions; Tanzania and Botswana                   |
| 1300 – 1400 | Lunch  |
| 1400 – 1500 | Country Presentations and Discussions; Malawi and Namibia                      |
| 1500 – 1530 | Tea Break  |
| 1530 – 1730 | Presentation: Issues of Ethics and Professional Values                         |
| 1830 – 2200 | Welcome Dinner   |

#### Tuesday 24 May 2011

- |             |  |
|-------------|--|
| 0900 – 1030 | Presentation: From Silo to Holistic, a Key Strategy for combating corruption in the Commonwealth |
| 1030 – 1100 | Tea Break  |
| 1100 – 1200 | Country Presentations and Discussions; South Africa, Sierra Leone and Mauritius                  |
| 1200 – 1300 | Country Presentations and Discussions; Zambia and Cameroon                                       |
| 1300 – 1400 | Lunch  |
| 1400 – 1500 | Country Presentations and Discussions; Lesotho and Uganda  |

1500 – 1530 Tea Break

1530 – 1730 Presentation: From Ambition to Action; Global Progress on Tackling Corruption

**Wednesday 25 May 2011**

0830 – 1045 Presentation: Contemporary Challenges Faced by Anti Corruption Agencies and Good Practices in the Commonwealth

1045 – 1100 Discussions

1100 – 1130 Tea Break

1130 – 1230 Country Presentations and Discussions; Nigeria, Kenya and Rwanda

1230 – 1330 Lunch

1330 – 1500 Country Presentations and Discussions; Gambia, Swaziland, Ghana

1500 – 1530 Tea Break

1530 – 1630 Presentation: Fraud Detection – Research Findings

**Thursday 26 May 2011**

0830 – 1000 Group Work

1000 – 1100 Discussions and Feedback

1100 – 1130 Tea Break

1130 – 1230 Action Plans for follow up

1230 – 1330 Lunch

1330 – 1500 Closing Remarks and Award of Certificates

1500 – 1530 Tea Break and Networking

## LIST OF PARTICIPANTS

### 1<sup>st</sup> Commonwealth Regional Conference for Heads of Anti Corruption Agencies in Africa, 23 – 26 May 2011

No.	Title	Fore name (s)	Surname	Country	Organization/Company
1	Mr.	Meshack J.	<b>Tafa</b>	Botswana	Non Bank Financial Institutions Regulatory Authority
2	Mrs.	Rose N.	<b>Seretse</b>	Botswana	Directorate on Corruption and Economic Crime
3	Mr.	Leonard	<b>Selema</b>	Botswana	Bank of Botswana
4	Mrs.	Emma	<b>Peloetletse</b>	Botswana	Accountant General
5	Mrs.	Erica	<b>Ndlovu</b>	Botswana	Directorate on Corruption and Economic Crime
6	Mr.	G. Mmoloki	<b>Motsewabagale</b>	Botswana	Botswana Unified Revenue Service
7	Ms.	M.	<b>Mosarwa</b>	Botswana	Botswana Police Service
8	Mr.	Kealeboga	<b>Molelowatladi</b>	Botswana	Auditor General
9	Ms.	K.K	<b>Moepeng</b>	Botswana	Directorate on Public Service Management
10	Mr.	Jackson	<b>Mazdima</b>	Botswana	Financial Intelligence Agency
11	Mrs.	Botlhale	<b>Makgekgene</b>	Botswana	Directorate on Corruption and Economic Crime
12	Mr.	M. R	<b>Lubinda</b>	Botswana	Public Procurement & Asset Disposal Board
13	Mr.	Ofentse	<b>Lepodise</b>	Botswana	Office of the Ombudsman

14	Mr.	Kabo	<b>Leinaeng</b>	Botswana	Director of Public Prosecutions
15	Mr.	Marshall	<b>Kgokgothwane</b>	Botswana	Bank of Botswana
16	Mr.	Kenny	<b>Kapinga</b>	Botswana	Botswana Police Service
17	Ms.	B.P	<b>John</b>	Botswana	Public Procurement & Asset Disposal Board
18	Ms.	Matshidiso	<b>Bokole</b>	Botswana	Office of the Ombudsman
19	Mr.	Leonidas	<b>Habonimana</b>	Burundi	Special Brigade Anti-Corruption
20	Mrs.	Irene	<b>MorikangTche</b>	Cameroon	Prevention and Communication Division, CONAC
21	Mr.	Joseph Aseh	<b>Malegho</b>	Cameroon	Office of the President
22	Mr.	Thomas Didyme	<b>Ondoa Mbazoa</b>	Cameroon	Ministry of External Relations
23	Rev.	Dieudonné	<b>Massi Gams</b>	Cameroon	National Anti-Corruption Commission of Cameroon (CONAC)
24	Mr.	Dieudonné	<b>Epo</b>	Cameroon	Studies and Cooperation Division, CONAC
25	Mr.	Alhaji B.	<b>Sowe</b>	Gambia	The Office of the Ombudsman
26	Mr.	Pierre Simon	<b>Secka</b>	Gambia	The Office of the Ombudsman
27	Mr.	Charles Nii Adama	<b>Akrong</b>	Ghana	Economic and Organised Crime Office
28	Mr.	Biadela Mortey	<b>Akpadzi</b>	Ghana	Economic and Organised Crime Office
29	Prof.	Kwame	<b>Frimpong</b>	Ghana	GIMPA Law School
30	Prof.	Jane	<b>Onsongo</b>	Kenya	The Kenya Anti-Corruption Commission
31	Mr.	Leshele Abel	<b>Thoahlane</b>	Lesotho	Directorate on Corruption and Economic Offence

32	Mr.	Alexius Ernest	<b>Nampota</b>	Malawi	Anti-Corruption Bureau
33	Mr.	Anil Kumar	<b>Ujoodha</b>	Mauritius	Independent Commission Against Corruption
34	Mr.	Hendriques	<b>Andre'</b>	Mozambique	Public Sector Reform Program
35	Mr.	Paulus	<b>Noa</b>	Namibia	Anti-Corruption Commission
36	Sir.	Simeon Olusola	<b>Oguntimehin</b>	Nigeria	Independent Corrupt Practices and other Related Offences Commission (ICPC)
37	Mrs.	Farida	<b>Waziri</b>	Nigeria	Nigeria Economic & Financial Crimes Commission (EFCC)
38	Mr.	Babafemi	<b>Adefemi</b>	Nigeria	Nigeria Economic & Financial Crimes Commission (EFCC)
39	Mrs.	Sulaiman Mariam	<b>Niyi</b>	Nigeria	Nigeria Economic & Financial Crimes Commission (EFCC)
40	Mr.	Othman Abubakar	<b>Adam</b>	Nigeria	Nigeria Economic & Financial Crimes Commission (EFCC)
41	Mr.	Olagunju O.	<b>Omolara</b>	Nigeria	Nigeria Economic & Financial Crimes Commission (EFCC)
42	Mr.	Jean Aime	<b>Kajangana</b>	Rwanda	Unit of Monitoring Interdictions and Incompatibilities of Senior Officials
43	Ms.	Bernadette	<b>Kanzayire</b>	Rwanda	The Office of the Ombudsman
44	Mr.	Joseph Fitzgerald	<b>Kamara</b>	Sierra Leone	Sierra Leone Anti-Corruption Commission
45	Dr.	Mashau Silas	<b>Ramaite</b>	South Africa	National Prosecuting Authority of South Africa
46	Adv.	Michelle	<b>Ramoorthy</b>	South Africa	National Prosecuting Authority of South Africa
47	Mrs.	Lillian Xolile	<b>Zwane</b>	Swaziland	Swaziland Anti-Corruption Commission
48	Dr.	Edward Gamaya	<b>Hoseah</b>	Tanzania	Prevention and combating of Corruption Bureau (PCCB)
49	Mr.	Daniel John	<b>Pundu</b>	Tanzania	Prevention and combating of Corruption Bureau (PCCB)

50	Mr.	Raphael Obudra	<b>Baku</b>	Uganda	Inspectorate of Government
51	Mr.	Rwerezza Jossy	<b>Jules</b>	Uganda	Inspectorate of Government
52	Dr.	Roger	<b>Koranteng</b>	UK	Commonwealth Secretariat
53	Mr.	Max	<b>Everest-Phillips</b>	UK	Commonwealth Secretariat
54	Mr.	Bertrand	<b>Speville</b>	UK	De Speville & Associates
55	Mr.	Phil	<b>Mason</b>	UK	DFID
56	Lt. Col.	Godfrey Robert	<b>Kayukwa</b>	Zambia	Zambia Anti-Corruption Commission
57	Ms.	Elizabeth Nyaunde	<b>Mulenga</b>	Zambia	Zambia Anti-Corruption Commission
58	Ms.	Yvonne	<b>Chibiya</b>	Zimbabwe	Human Rights and Development Trust of Southern Africa <b>(HURIDETSA)</b>

---

<sup>i</sup> See Annexure 1