

**3rd Commonwealth Regional Conference  
for  
Heads of Anti-Corruption Agencies  
in  
Commonwealth Africa  
Mauritius**

**13 - 17 May 2013**



***Fighting Corruption Without Fear or Favour***



Independent Commission  
Against Corruption



Commonwealth Secretariat

**Republic of Mauritius**

## Introduction

The Commonwealth Secretariat, in collaboration with the Independent Commission Against Corruption (ICAC), Mauritius, organised the 3<sup>rd</sup> Commonwealth Africa Regional Conference for Heads of Anti-corruption Agencies in Mauritius, from 13 – 17 May 2013. The Conference provided a unique platform for sharing emerging practices and country innovations in the fight against corruption and the promotion of good governance.

It is widely recognised that that corruption is an obstacle to sustainable development and that corruption can undermine development in several ways. “With the annual total of bribes paid worldwide estimated to be over US\$1 trillion, corruption remains a huge issue in many Commonwealth countries, and a significant barrier to economic growth.” Mark Robinson, Chief Personnel Officer, DFID.

Combating corruption has been identified by the Commonwealth Secretariat as a crucial part of its work as Commonwealth Heads of Government have committed to root out systemic corruption at both national and international levels. The Secretariat’s Anti-corruption work has been guided by the framework of Commonwealth Principles on Promoting Good Governance and Combating Corruption.

To this end the Network of Anti-Corruption Agencies (ACAs) in Commonwealth Africa has been formed to enable South-South collaboration and learning. The Network seeks to broker the exchange of ideas and good practices among Commonwealth African countries and to encourage the sharing of experience in areas of comparative advantage, general political buy-in processes and pressures for reforms.

The Commonwealth Africa Anti-Corruption Centre (CAACC) has been established as the prime vehicle for improving coordination and strengthening the capacity of Anti-Corruption agencies in Commonwealth Africa. The Centre will transform the Anti-Corruption Agencies in Commonwealth Africa into a vibrant network providing active exchanges on “best fit” practices and sharing solutions to common problems.

The Centre as a flagship project will provide a visible and tangible demonstration of the Secretariat's commitment to support its members' anti-corruption efforts, with the potential for replication across the Commonwealth.

The Vice-President of Botswana, Dr Ponatshego H. K. Kedikilwe and DSG Masire-Mwamba jointly commissioned the Centre which culminated in the signing of an Agreement Document to operationalise the Centre.

About 200 High Commissioners, Ministers, MPs, Judges and senior government officials from Botswana, Heads of Anti-Corruption Agencies, Anti-corruption officials from Commonwealth and Development partners among others attended the launch.

In pursuit of the commitment to institutionalise transparency, accountability and corruption prevention, the Commonwealth Fund for Technical Cooperation (CFTC) of the Commonwealth Secretariat, through the auspices of ICAC, Mauritius, jointly hosted the 3<sup>rd</sup> Commonwealth Regional Conference for Heads of Anti-corruption Agencies in Commonwealth Africa to share "best fit" solutions in order to deliver on their mandates.

### **Aim of the Conference**

The key aim of the Conference was to enhance south-south learning and the sharing of country experiences through strengthened network of Heads of Anti-Corruption Agencies in Commonwealth Africa. The Commonwealth takes the view that there is no better method of building institutions than strengthening communities of practitioners, building professional networks and creating such opportunities for countries to exchange best fit solutions.

The Conference also aimed to:

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

### **Theme of Conference**

The main theme for the Conference was **“Fighting Corruption without Fear and Favour”**.

### **Conference Objectives**

This high level Conference offered an experience-sharing opportunity for all Heads of Anti-Corruption Agencies in Commonwealth Africa to share experience and to discuss best fit solutions. In this annual review meeting, delegates shared strategies and approaches to tackling corruption and promoting good governance. The Conference objectives were achieved through a combination of presentations, group discussions and networking during and out of sessions.

### **Programme Content**

The following themes were explored during the conference:

- Intricacies of the rule of law principles in respect of fighting corruption without fear or favour
- Burden of proof/prerequisite for any crime but different for corruption?
- Progress of African Commonwealth States in convincing the citizens’ need to stand up against corruption
- Issues raised in the UNCAC Review Mechanism
- Impact of Corruption Perception Index on Commonwealth African countries as a benchmark
- The Role of Judiciary in the Fight Against Corruption
- Country experiences in the “role of innovation” in fighting Corruption (success stories) - Country paper presentations and experience-sharing

## **Expected Outcomes**

The Conference which enhanced South-South cooperation resulted in significant capacity for the practitioner networks to improve governance in Commonwealth Africa by sharing south-south 'best fit'. The Conference brokered exchange of ideas and practices among Commonwealth African countries, and, encouraged the sharing expertise in areas where they have a comparative advantage, and generate political buy-in and pressures for reform. Capacities for Anti-Corruption Agencies in Commonwealth Africa have been strengthened, through effective use of professional networks, to benefit more from and enhance south-south cooperation.

## **Participants' Profile**

The participants were all Heads and Deputy Heads of Anti-Corruption Commissions/Agencies in Commonwealth Africa

## **Country Presentations**

Delegates were invited to submit a conference paper and make a country presentation.

## **Collaborating Organisation**

### **1. Commonwealth Secretariat / GIDD**

The Governance and Institutional Development Division (GIDD) works as a trusted partner with all Commonwealth peoples to provide excellent technical assistance for capacity-building and sustainable development in public institutions in particular, and in private-sector and civil society institutions with public responsibilities.

GIDD contributes to the Commonwealth Secretariat's commitment to promote democracy and good governance by supporting the Public Sector development in commonwealth countries. Its work covers the full spectrum of Public sector administration and management as well as issues relating to civil society and private sector institutions with a public responsibility.

It is responsible for promoting a 'public service' ethos in the Commonwealth, with the aim of assisting member countries in their efforts to improve the performance of their public service as a key contributor to good governance. The long-term vision of GIDD is that every Commonwealth country will have an effective public service that leads the essential institutional infrastructure for an appropriately balanced system of democratic governance, and social cohesion which will be a symbol of Commonwealth membership.

GIDD promotes the installation and strengthening of essential public administration capacities required for good governance and national development in each member country, based on Commonwealth experience, good best practices and values. This is done by providing an integrated programme of technical assistance services to member countries to enable each to develop the critical structures, systems, institutions and human resources for public-sector administration, as well as in crucial development areas.

**GIDD provides** specialised expertise and advisory services to member countries in the areas of:

- Good governance;
- Public Financial Management;
- Public Private Partnerships and Corporate Governance;
- Information and Communications Technologies;
- Sub-National Government and Administration; and
- Human Resource Management and Leadership

GIDD provides long and short term technical assistance through the services of specialist consultants and volunteers to member governments and regional organisations in response to their needs towards building a national capacity and institutional strengths. The experts come from both developed and developing countries, and are very experienced in their fields, their assignments range from a few days to two years.

## **Protocol Part**

**Opening address by A. K. Ujoodha, Director General of ICAC, Mauritius**

**Introduction by Dr Joan Nwasike, Head of Thematic group, Commonwealth Secretariat**

**Address by Dr Roger Korenteng, Governance Adviser, Commonwealth Secretariat.**

Dr Roger Korenteng presented a brief history of the Conference of Heads of Commonwealth African Anti-Corruption Agencies and focussed his remarks on how far the Association of Anti-Corruption Agencies in Commonwealth Africa has travelled.

The Commonwealth Heads of Government Meeting (CHOGM) mandate in 2005 obliges the Commonwealth Secretariat to support member states to develop and adopt measures and strategies to combat corruption and improve governance (CHOGM mandate, 2005). To this end, Commonwealth Secretariat prioritised anti-corruption work to strengthen good governance through reduction in corruption and thereby promoting accountability and integrity in the Commonwealth. To achieve this end ComSec supported in-country collaborative approaches to deal with issues of corruption by mobilising all key governance institutions and other stakeholders involved in monitoring, detecting, responding to corruption related issues. This in-country anti-corruption project started off in Commonwealth Africa countries such as Botswana, Zambia, Ghana, Lesotho, The Gambia, Sierra Leone, Seychelles, South Africa, etc and expanded to the Caribbean region like Dominica, St Lucia, Grenada and St. Vincent and also in Malaysia in Asia. Following two 2 years of in-country work, the Commonwealth Secretariat decided in 2011 to bring all Heads of ACAs in Commonwealth Africa to a Conference.

This 1<sup>st</sup> Conference of Heads of Commonwealth African Anti-Corruption Agencies was held in Gaborone, Botswana, in May 2011. Fifty relevant top officials from 18 out of 19 member countries attended. The conference agreed on the urgent need for strengthening Anti-Corruption Agencies and the promotion of regional networking.

The outcome of the Gaborone conference was the creation of the Association of Heads of ACAs in Commonwealth Africa for south-south collaboration and learning. The Heads of ACAs agreed to meet annually for peer to-peer review and innovative experience sharing, and that the host and venue for the annual conference would be rotated among member countries.

The 2<sup>nd</sup> Conference for Heads of Anti-corruption Agencies in Commonwealth Africa was held in May 2012 in Livingstone, Zambia. The Conference called for a Secretariat to be set up to coordinate the affairs of the Association. The Conference invited member countries to consider sponsoring and hosting the Association's Secretariat after conferring with their respective governments. Botswana Government offered to host the Commonwealth Anti-Corruption Secretariat in Gaborone, Botswana.

Having accepted Botswana's concrete offer to host Secretariat for the Association of Anti-Corruption Agencies in Commonwealth Africa, the Commonwealth Secretariat proposed to change the concept of Secretariat to a Centre - naming it Commonwealth Africa Anti-Corruption Centre (CAACC) mindful that a Centre functions are more than that of a secretariat. The Centre will undertake a hive of anti-corruption activities.

The Vice-President of Botswana, Dr Ponatshego H. K. Kedikilwe and Commonwealth DSG Masire-Mwamba jointly commissioned the Commonwealth Africa Anti-Corruption Centre which culminated in the signing of an Agreement Document to operationalise the Centre on 25<sup>th</sup> February, 2013. About 200 High Commissioners, Ministers, MPs, Judges and senior government officials from Botswana, Heads of Anti-Corruption Agencies, Anti-corruption officials from Commonwealth and Development partners among others attended the launch. This landmark achievement of launching Commonwealth Africa Anti-Corruption Centre reaffirms the Commonwealth's commitment to fight against corruption.

The Commonwealth Africa Anti-Corruption Centre is a visible and tangible demonstration of the Commonwealth commitment to support its members' anti-corruption efforts, with the potential for replication in Commonwealth countries across the world. The Centre will offer

a credible service to the Association including assisting in tackling their challenges through the following:

- Training and development, including in investigations, prosecution, professional ethics, and M&E
- Peer reviews
- Twinning and other exchanges
- Research
- M&E, including baseline and annual surveys
- An annual review meeting and conference
- Fundraising for extra-budgetary resources (EBR)
- Communications, including: newsletters, an award for innovation, and providing solidarity among Association members in support of individual members facing hostile political and media campaigns.

Specifically, the Centre will transform the Association into a vibrant network providing active exchanges on 'best fit' practices and sharing lessons learning on common problems.

The Commonwealth Secretariat has committed to the Centre a total of one million pounds (£1m) i.e. £250,000 per year, for an initial period of four years to cover activities and technical assistance. The Government of Botswana's has committed, on its part, an in-kind contribution of a fully-staffed office accommodation and provision of training facilities. Anti-Corruption Agencies will have to only pay travel cost for their officers to access the Centre's programmes and activities.

Given the enormous importance attached by the international community to support efforts to tackle corruption in Africa, the Centre has already attracted enormous interest from international organisations. They include INTERPOL, UNDP, UNODC, TI, CIDA, Global Integrity, etc. It is expected that over time additional resources may continue to become available to enable a wider variety of activities to be undertaken by the centre.

The Commonwealth Secretariat appreciates its collaboration with the Independent Commission Against Corruption, (ICAC) Mauritius, to organise the 3<sup>rd</sup> Commonwealth Africa Regional Conference for Heads of Anti-corruption Agencies scheduled to take place here in

Mauritius from May 13 - 17, 2013. The Conference will provide a unique platform for country reviews and innovations in the fight against corruption and the promotion of good governance. The objective of the conference is for Heads of ACAs to share strategies and approaches to tackling corruption and promoting good governance. The Heads of ACAs will also conduct annual peer reviews to enhance south-south learning and share country experiences. At this Mauritius Conference, the Delegates will not only peer-review country innovations and discuss expert presentations but also will have an opportunity to discuss the Commonwealth Anti-Corruption Centre and implementation of its programmes for the benefit of ACAs.

Finally permit to underscore the fact that, in pursuant of its commitment to anti-Corruption work, the Commonwealth Secretariat helped to establish the Association of Anti-Corruption Agencies in Commonwealth Africa during the 1<sup>st</sup> ever Heads of ACAs conference held in Botswana, in 2011. The 2<sup>nd</sup> Heads of ACAs Conference held in Zambia, 2012, the idea of Secretariat/Centre was agreed upon and was successfully launched in Botswana last February, 2013. This year's 2013 Heads of ACAs will seek buy-in from all stakeholders and international agencies to operationalise the Centre. The Centre seeks to transform the Anti-Corruption Agencies in Commonwealth Africa into a vibrant network providing active exchanges on "best fit" practices and sharing solutions to common problems.

The Commonwealth Secretariat is keen and committed to the ACAs and its Centre in Botswana to achieve meaningful and long lasting effort to combat corruption and to enhance good governance on the continent.

**Key note address and opening of Conference by H. E. the President of the republic of Mauritius, Mr K. Purryag**

## DAY 1

*Presentation by Pr Kwame Frimpong, Former Dean GIMPA Law School, UN Adviser to the Goldstone Commission*

### *Intricacies of the rule of law principles in respect of fighting corruption without fear and favour*

In his presentation, Pr Kwame Frimpong highlighted the following points:

- The devastating effect of corruption and the important role of international organizations in fighting this scourge. However, fighting corruption remains a challenge.
- Anti-corruption agencies have been set up to fight corruption. However, most are weak. Rule of law, defined as “an operation system or environment that ensures that all subjects or institutions are under the control of law”, can play an important role in remediating this.
- 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 and these arise from Constitutional System of Government
- The importance of a written constitution, most deriving their authority from the people.
- Judicial review: allows for checks and balances to operate among the branches of government and may put limitation on the activities of the other branches of government, by declaring their actions unconstitutional
- One critical element of the rule of law is the independence of the judiciary which in turn need have these three essential elements:
  - They should be “**competent.**” In other words having the capacity of authority to adjudicate over matters that come before them;
  - They should operate “**Independently,**” the most critical element; and
  - They need act “**Impartially,**” irrespective of who is appearing.

- Some basic requirements need be fulfilled for independence of the judiciary:
  - Appointment process should be done by an independent ensuring that the judiciary is not being controlled by other branches of the government.
  - 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.

### **Remarks**

- Absence of rule of law: if the independence of the judiciary is not guaranteed, fundamental rights of citizens will be jeopardised.
- Even though Anti-Corruption Agencies are strictly speaking, not courts or tribunals, nevertheless, their effectiveness will require all the three elements associated with the judiciary:
  - Competent
  - Independent
  - Impartial

### **Issue raised / pertinent remark:**

- Rule of law sometimes difficult to implement in 3<sup>rd</sup> world countries as some countries show resistance – the executive becomes too powerful and legislative is at the mercy of the executive

### **Presentation of country report - Botswana**

**DCEC:** Instituted in 1994 by Act of Parliament.

Uses a 3-pronged strategy: prevention, education and investigation.

### **Innovative work / initiatives implemented:**

- ▶ Amendment of the Corruption and Economic Crime Act
- ▶ Whistle Blowing and Declaration of Assets Legislation
- ▶ Establishment of a Corruption Court and Corruption Division at the Directorate of Public Prosecutions
- ▶ Collaboration with the United Nations Development Programme to Commemorate the United Nations International Anti-Corruption Day
- ▶ Reporting obligations of Ministries on their anti-corruption initiatives (Corruption Prevention Committees and Anti-Corruption Units)
- ▶ Development of a structure for Anti-Corruption Units

**Main challenges faced in implementing initiatives:**

- ▶ Corruption and Economic Crime Act Bill
  - ❖ Deferred tabling
  - ❖ Financial implications to implement the Bill
- ▶ Corruption Court : Not yet fully operational
- ▶ Reporting obligations of Ministries on their anti-corruption initiatives
  - ❖ Compliance with reporting obligation is based on quarterly assessment

**Results of innovation:**

- ▶ Corruption and Economic Crime Bill, draft whistle Blowing Policy and Draft Declaration of Assets Legislation
  - ❖ Broader mandate for the DCEC to operate
  - ❖ Increase in conviction rate
- ▶ Corruption court and Anti-Corruption Unit at the DPP
  - ❖ Decline in suspended sentences and acquittals based on technicalities
  - ❖ Increase in conviction rate
- ▶ Commemoration of the International Ant-Corruption Day
  - ❖ Strong political will and commitment to combat corruption
- ▶ Reporting obligations of Ministries on their Anti-corruption initiatives
  - ❖ Ministries taking ownership of anticorruption initiatives
- ▶ Development of a structure for anti-corruption initiatives

- ❖ Uniformity in structure and scale of ACU heads and staff
- ▶ Reflection and lesson learnt: Political will is key to the success of any anti-corruption initiative

### **Presentation of country report - Cameroon**

**CONAC:** Poor positioning: Transparency International 2012 Corruption Perception Index places Cameroon on the 144<sup>th</sup> position out of the 174 countries sampled.

- The National Anti-Corruption Commission of Cameroon was created by a Presidential decree on the 11<sup>th</sup> of March 2006.
- It is an independent public body placed under the authority of the President of the Republic and has as main mission to contribute to the fight against corruption in Cameroon.
- The Commission is the only body in Cameroon with a mandate to curb corruption using preventive and repressive measures.

Most of CONAC's actions fall within the following projects:

- ✓ The National Education Programme for Integrity
- ✓ The National Coalition Against Corruption
- ✓ The Rapid Intervention Unit (RIU) and
- ✓ The National Strategy to Fight Against Corruption
- The Rapid Results Initiative is being used to implement Cameroon's National Strategy to Fight Against Corruption involving the use of easy and cheap to realise activities, whose results can be perceptible within 100 days, to fight against corruption.
- Positive changes has been noticed in some sectors, namely health, secondary education, forestry and wildlife, public contracts, mines and extractive industries, public and administrative reforms amongst others.

### **Difficulties encountered in implementation of RRI:**

- reticence to accept change by most people;
- request for additional payment by workers selected to supervise the implementation of the RRI;
- lack of knowledge about the basic texts and laws of the nation by a majority of the population;
- request for motivation by staff who are hardworking.

**MAIN CHALLENGE:** To ensure that the level of integrity observed in the pilot structures during the 100 days of intensive supervision by CONAC is maintained and the initiatives generalized.

### ***CHALLENGES FACED IN CARRYING OUT RAPID INTERVENTION OPERATIONS***

- CONAC is not yet present in all the regions of Cameroon. This makes it difficult for the Commission to intervene rapidly in localities that are far away from Yaounde.
- Inadequate human and material resources for a permanent presence of CONAC on the field.
- Lack of state-of-the-art equipment for audio and video documentation.
- Recurrent fruitless interventions due to information leakages on the activities of CONAC.

### **Worth noting:**

- ✓ the Rapid Intervention Unit has greatly helped to improve on the image of CONAC.
- ✓ More and more people believe in the Commission and are ready to denounce acts of corruption.
- ✓ Denunciations received at CONAC have increased three folds over the last year; from about 300 a month in 2010 and 2011 to over 1000 each month in 2013.

### **Some issues raised:**

- The need to establish an ACU in DPP office
- Need provide for corruption-related specific training to deal with complex high profile cases

### ***Presentation by Ms Polly Wan, Assistant to the DPP of Hong Kong***

#### ***Theme: Burden of proof /prerequisite for any crime but different for corruption?***

To fight corruption, there needs to be:

- (a) A specialist independent body free from interference to tackle the social evil of corruption by a three-pronged attack through enforcement, education and prevention.
- (b) A comprehensive regime of offences and investigatory powers.
- (c) Offence provisions with international reach and provisions that disgorge the proceeds and profits of corruption.
- (d) Extensive international links and appropriate mutual legal assistance legislation.

In Hong Kong there are three major anti-corruption laws :

- (1) The Prevention of Bribery Ordinance, Cap. 201 (1971) (POBO)
- (2) The Independent Commission Against Corruption Ordinance, Cap. 204 (1974) (ICACO)
- (3) The Elections (Corrupt and Illegal Conduct) Ordinance, Cap. 554 (2000)

The anti-corruption laws of Mauritius closely follow the Hong Kong model- the Prevention of Corruption Act (POCA 2002).

- The only relevant state of mind in corruption offences is that of the person charged and in an accepting case, the prosecution do not have to show why the advantage was offered to the accused. Nor is it necessary that the recipient of a corrupt offer was actually induced to conduct himself corruptly or even knew of the corrupt purpose of the offer.

- Misconduct in Public Office: The common law offence of MIPO is an important offence in dealing with misfeasance in public office which may not be bribery related. It covers official misconduct when a public official commits a serious abuse of any power, duty or responsibility exercisable for the public good.
- In prosecuting a corruption offence the first thing to do is to identify the criminality and the appropriate offence provision.
- Identify the ingredients of the offence and determine the mental element and the physical element. Look to the definition provisions. Identify any defences and determine whether there is a legal or evidential burden. Watch out for defences that may be an element of the offence. For instance, a lawful authority or reasonable excuse may be considered to be an element of the offence.
- The burden of proof on the prosecution is beyond a reasonable doubt.

**Some issues raised / comments:**

- The discussion/questions centered on the 'burden of proof' which remains a challenge with a number of cases failing at court.
- Participants raised numerous questions on the burden of proof. Ms Wan suggested that the issue be brought on the agenda in another forum with more practical examples.

**Presentation of country report - Ghana**

Generated a lot of discussion particularly on illicit enrichment and the declaration of assets

- The Commission on Human Rights and Administrative Justice (CHRAJ) was established in 1993 as a national institution that fuses in one office three different institutions:
  - National Human Rights Institution;
  - an Ombudsman and,

- an Anti-Corruption Agency.
- The establishment of the Commission is unique because:
  - It is the first time in the constitutional history of Ghana that institutional machinery has emerged as a model combining functions of three distinct institutions;
  - Its independence is guaranteed under the Constitution and
  - its investigative powers cover every public officer from the President to the ordinary person.
- The Commission has made a shift to prevention and education whilst it continues to function largely, as an investigative/enforcement body and currently, corruption prevention and education provide the basis for the key innovations being employed by the Commission.
- Focus is more on integrity:
  - stimulating value-based processes rather than punitive measures
  - developing and creating awareness of the Code of Conduct for Public officers and the guidelines on conflict of interest (the Guidelines) in the last seven years as well as providing training to officers on code of conduct.
  - Establishing functional ethics desks in government departments: the guidelines have been put into a draft law, Public Officers (code of Conduct) Bill, which is expected to be passed in 2013.
- Engagement with the Parliamentary Committee on Members Holding Office of Profit made it possible for the production of a draft Code of Conduct/Ethics for Parliamentarians.
- The Commission has commenced systemic investigations into two public institutions, which have consistently been identified as corruption prone in various studies conducted in Ghana in recent years.
- Alliance building:
  - Ghana Anti-Corruption Coalition
  - Memorandum of Understanding with Malaysia Anti-Corruption Commission (MACC)
- Engagement with youth and students: Integrity Clubs

- Corruption in elections: Elections have become the biggest source of corruption in Ghana in recent times
- Programme was set up to monitor pre-election environment and elections.
- The Commission coordinated the development of a National Anti-Corruption Action Plan (NACAP), because of its demonstrated independence and credibility. It contains strategic action plans identified and agreed upon by stakeholders, including the private sector, during nationwide consultations.
- The Commission faces a number of challenges in the discharge of its anti-corruption mandate. Significant among these include inadequate human resource capacity and resources, high tolerance for corruption resulting in low reporting of corruption by the public and over politicization of corruption and crime
- Establishment of a 'democracy fun

## DAY 2

### Presentation by Mrs B. Strobel-Shaw, UNODC

#### *Discussions on issues raised in the UNCAC Review Mechanism*

- Adopted by the General Assembly: Resolution 58/4, 31 October 2003, entering into force on 14 December 2005
- Signatories: 140, States Parties: 166
- The UNCAC:
  - Prevent and combat corruption more effectively
  - Promote integrity, accountability & proper management of public affairs and public property
  - Promote international cooperation & technical assistance
- Term 'corruption' not defined by the UNCAC
- Major breakthrough: Asset recovery as a fundamental principal
- Review is non-adversarial / non punitive / no rankings
- The review stages:
  - Peer review process (Drawing of lots)
  - Self-assessment
  - Desk Review
  - Active dialogue – including teleconferencing, joint meeting in Vienna
  - Country report, executive summary go to IRG
- The UNCAC paves the way for policy and legal reform and serves as a platform for national dialogue and provides for cooperation of anti-corruption actors
- Several countries used review to recommend certain issues
- Programming around the outcomes of the reviews – take into account regional needs
- Importance of regional and international harmonization of domestic measures to facilitate international cooperation and avoid safe havens

### **Issues raised / comments:**

- UNCAC not widely used as a legal basis for extradition although most countries signed acknowledging that purpose.
- Namibia highlighted that the challenge resides in dealing with the issue of illicit enrichment; that the question of constitution comes in when tackling this issue. The UNODC highlighted that some countries have come up with 'asset declaration' to counter this issue
- The UNDOC helps countries in the conduct of self-assessment
- After implementation, there is no real follow up. UNODC feel the need for countries who have implemented recommendations post the review to report it. Should a formal system be set up for follow up?
- Since it is non-punitive, there are no sanctions for non-compliance
- There is possibility of re-draw for peer review in certain circumstances
- South Africa has allowed for the publication of the country's report on UNODC's website – would be good if others do same.

### **Presentation of country report- Kenya**

#### ***Innovative work experiences in the fight against corruption. The case of the Ethics and Anti-Corruption Commission of Kenya***

- The Ethics and Anti-Corruption Commission (EACC) was established in 2011.
- There are 5 regional offices and are in the process of opening 3 more offices.
- *Integrity testing programme*
- THE EACC utilizes the existing structured and combine regional spread of the respective agencies to establish an integrated public complaints handling mechanism
- Two innovations:
  - Electronic based Integrated Public Complaints Referral Mechanism (e-IPCRM) and;

- Memorandums of Understanding (MOUs) with strategic stakeholders in anti-corruption
- E-IPCRM: brings together six agencies with a mandate of receiving complaints from the public on governance issues
- Successes of initiatives:
  - Enhanced synergy between agencies
  - Support in anti-corruption initiatives
  - Optimum utilisation of resources
  - Enhanced service delivery
- Challenges:
  - Unequal commitment from all stakeholders
  - Technology Constraints - the various agencies are at different levels of technological development
  - Inadequate Resources to implement the initiatives.
  - Low levels of awareness
- Reflections & lessons learnt:
  - It is important to promote synergy between stakeholders in the fight against corruption
  - Monitoring and evaluation is a critical factor for the success of the initiatives
  - Standard operating procedures, setting out an implementation framework and allocating responsibilities (mitigating against conflict)
  - Adequate allocation of resources and budgeting
- Recommendations:
  - Use of technology to simplify processes and enhance service delivery.
  - Enhanced cooperation in the fight against corruption.

**Issues raised / comments:**

- Issue of confidentiality with the processing of complaints
- Initiative undertaken by the private sector by themselves to adhere to code of ethics.

***Theme-Fighting Corruption without Fear and favour appropriate***

- New coalition government re-affirms its commitment to fighting corruption
- Enhanced autonomy of DCEO
- Investigating/prosecuting high profile cases
- Prevention and Education
  - Schools programme
  - Business Action Against Corruption
  - District Anti-Corruption Committees
  - Systems Integrity Committees
- New Bill developed:
  - streamlining of mandate
  - terms and conditions of staff
  - declaration of declarable assets and interests
  - gift offence
  - citizen participation in DCEO's work
  - DCEO's extension to regions and districts
- Challenges are
  - Institutional and operational capacity
  - Budgetary constraints lead to inconsistency of programmes
- Results
  - Buy-in of stakeholders
  - Lesotho's CPI current rating

It is to be noted that politics remains a significant pillar and regional forums are very significant.

**Issues / Comments Raised:**

- The issue of terms of conditions of employment should be moved from permanent employment to contracts. The people who work in the civil service should come and spend some 3 years in the commission and share expertise.

- Currently there's no programme which involve magistrate but I believe that we should engage them to deal with corruption issues.
- Issues were raised on Declaration of assets. In Uganda, declaration of assets is even made for their family members. In case of suspicion, verification checks can be conducted.
- Engage magistrates in declaration of assets so that the independence of the judiciary is clear.
- Provision in the law: The Director General has the power to ask for an account where they have wealth so that investigations can be carried on.
- Student awarded 1<sup>st</sup> prize for essay writing competition in Africa and collected award in Rwanda.

### **Presentation of country report - Malawi**

- In Malawi corruption remains endemic and is recognised as an evil with devastating consequences on economic and social development besides undermining democracy and good governance.
- The Anti-Corruption Bureau is set up under the Corrupt Practices Act, Cap 7:01 of the Laws of Malawi to lead the fight against corruption
- National Anti-Corruption Day: 05 February
- National Anti-Corruption Strategy has 8 pillars:
  - the Executive,
  - the Legislature,
  - the Judiciary,
  - the private sector,
  - civil society,
  - faith-based organizations,
  - traditional leaders and
  - the media.
- Purpose is to use the strategy to develop a national integrity system – establishment of a national integrity committee

- Setting up of Anti-Corruption Clubs in rural areas and supporting them.
- The Bureau has worked with various government ministries and department as well as public institutions in developing and launching fraud and anti-corruption policies for the concerned institutions
- The Bureau is presently implementing **delay reduction strategies** in both investigations and prosecution of cases.
- Challenges:
  - Inadequate financial resources
  - Inadequate human resource capacity. The Bureau is operating at a little over 50% capacity in terms of staff,
  - Inadequate training especially in specialised skills in investigation and prosecution
  - Inadequate legal protection of whistleblowers and staff.
  - Staff turnover on account of less than attractive conditions of service.
  - The Bureau has serious staff retention problems
  - Backlog and delay in complaint handling.
  - Slow rate at disposal of cases.
  - Investigations sometimes take unduly long.
  - Numerous and unnecessary court adjournment delay prosecution of cases.
  - Unwillingness to testify against certain individuals put the prosecution case in jeopardy.
- Results:
  - There is greater public awareness of the evil and dangerous effects of corruption
  - More reports of corruption are coming through which show some level of public understanding of what constitutes and what does not constitute corruption
  - Increased level of partnerships in the fight against corruption.
- Conclusion:
  - Fighting corruption requires more than the law as there are deep rooted moral issues involved.
  - Collaboration in the fight against corruption achieves much more than would be achieved by an anti-corruption agency alone.

- They say that if you want to run fast go it alone, but if you want to get far do it jointly with others. So is the with the fight against corruption.
- Communication with the public is critical in the fight against corruption. Public perceptions that the anti-corruption agency is ineffective have also been attributed to lack of information on the positive work of the agency.

### **Presentation of country report - Mauritius**

#### **The Independent Commission Against Corruption (ICAC) – PoCA 2002**

##### ICAC:

- Lead, implement and administer prevention, education and enforcement elements of the national strategy to fight corruption within the established parameters
- Three-pronged strategy-investigation, prevention and education
- Improving effectiveness and efficiency of investigation and education through technology
- Setting up of state of the art IT infrastructure: enhance the communication system, time management, intranet and case management systems
- In the process of establishing a Cyber Crime Unit to reinforce its investigation capacities with new technologies
- 5 R's STRATEGY-Empower the population to:
  - **Recognize**
  - **Resist**
  - **Reject**
  - **Report**
  - **Reinforce**
- Prevention through systems enhancement
- Public Sector Anti-Corruption Framework

## **CHALLENGES / CONSTRAINTS**

- Amendments to the PoCA 2002 – regular updates/reviews
- Reluctance of witnesses to testify – sometimes they turn hostile
- Availability of adequate resources
- The business community has joined the fight to adhere to the 10<sup>th</sup> principle of the UN Global Compact but few are reluctant to open up
- Effective collaboration to fight corruption as a global phenomenon driven by technology

## **The Way Forward**

- Implementation of the Anti-corruption Frameworks in public and private organisations;
- Reinforcing integrity at all levels for a “zero-tolerance” attitude against corruption;
- Devising strategies to assess integrity of decision-makers at executive level;
- Stronger commitment and more effective partnership at national, regional and international level to sustain anti-corruption programmes and activities;
- Synergy of efforts for best-fit strategies.

## **Issues raised / comments:**

- ICAC has a good collaboration with the Ministry of Education and Human Resources and values are woven within the school curriculum.
- For the Cambridge Higher School Certificate, anti-corruption themes are included in General Paper.
- Law requires ICAC to undertake reviews. However, implementation of recommendations is not mandatory.
- Working on strategy for press release of Corruption Prevention Reviews (CPRs)
- Working towards making recommendations mandatory under the law.
- 50% of complaints received are pursuable. Out of these, around 9% ends up in court.

**Theme: The Role of the Judiciary in fighting Corruption**

- Governments ought to take the lead in any anti-corruption drive.
- The legislature, the executive and the judiciary, have a critical role to play in the fight against corruption.
- Corruption has been criminalized in many jurisdictions.
- A strong, clean and corrupt-free judiciary can positively contribute to a successful fight against corruption.
- Article 11 of the United Nations Convention against Corruption recognizes that the judiciary has a crucial role in combating corruption.
- The Chief Justice of Ghana, Mrs. Wood, once observed that a robust and independent judiciary of impeccable integrity was Africa's answer to corruption and other economic crimes.
- A strong, fair and efficient judiciary is key to any anti-corruption drive.
- Article 11(1) of the United Nations Convention against Corruption provides that each State Party shall take measures to strengthen integrity and prevent opportunities for corruption among members of the judiciary.
- Members of the judiciary may be reluctant to investigate a colleague with whom they are regularly associated.
- A decision not to investigate allegations of judicial corruption is often difficult to justify publicly and can be perceived as efforts to cover up embarrassing misconduct.
- The honesty and integrity of members of the judiciary is paramount in the fight against corruption.
- It is important that people have faith and trust in the courts.
- Members of the judiciary are accountable to society and judicial accountability is critical, in the same way judicial independence is.
- In a corrupt judicial system one only needs to corrupt once and thereafter the rippling effects spread like cancer.

- Every member of the judiciary must take all necessary care and precaution not to engage in corrupt practices and not to adversely affect honest members of the judiciary through corrupt practices.
- Where corruption is alleged within the judiciary, it must be investigated and culprits prosecuted.
- Procedures for investigating corruption within the judiciary must be publicly known and clear.
- A Judicial Service Commission is an example of a body that can undertake an investigation of an allegation of corruption against a judicial officer.
- We must bear in mind that the question of corruption in the judiciary may not be regarded as a matter of internal discipline for the judiciary.
- The judiciary is often regarded as the centre of democratization.
- Courts need to be firm, efficient and effective in the fight against corruption if any successes are to be registered.
- Indeed the judiciary needs to ensure that anti-corruption laws are administered properly and jealously, with cohesion and coherence in the application of legal principles and practices in the anti-corruption drive.
- Courts have a duty to demonstrate to convicts and any other like-minded persons that corruption not only ruins so many lives of innocent persons, but also that of the perpetrator of the crime.
- Courts have a duty to demonstrate through appropriate sentencing that they will not condone corruption.
- The judiciary has a role in ensuring quick disposal of corruption cases.
- Speedy disposal of corruption cases would make an invaluable contribution to an anti-corruption drive.
- Some jurisdictions have set up special anti-corruption courts to deal exclusively with corruption cases, thereby ensuring early and efficient disposal of such cases.
- Special and exclusive anti-corruption courts have reinforced the role of the judiciary in the fight reinforced against corruption in some jurisdictions.
- This has been widely hailed as an important legal innovation in the often elusive fight against corruption.

- Experiences of establishing special anti-corruption courts are to be seen in Pakistan, the Philippines, Uganda and Kenya.
- International organisations have also recommended establishing anti-corruption courts in countries such as Nigeria, Romania, Morocco and Bangladesh.
- Acting Inspector General of Government in Uganda said that *“Convicts can get a maximum of 10 years, but judges have been reluctant to give such stiff sentences. Instead, they give them three years with the option of paying a fine. This only makes corruption a lucrative business.”*
- Sierra Leone citizens are calling for special anti-corruption courts
- Corruption cases are treated by Magistrate’s courts (the lowest of the three-tiers courts) in Malawi
- Law on corruption is relatively new in Malawi and there is still a lot to learn about its application
- Judiciary has a special role to play in prevention and law enforcement and should refrain from being a stumbling block in the fight against corruption

**Issues/Comments Raised:**

- There is a professional way of presiding their cases through professional bodies, judicial services commission. The media should not be stopped from commenting. The media should be able to say if the judiciary is delaying justice.
- Room for appeal against judges does exist and it’s a normal thing to do. Where there is suspicion about corruption, there can be a separate investigation and a separate route should be taken. The court is passing sentences depending on what law is being applied.
- No one benefits from a corrupt practice and corruption should not be encouraged.
- The Judiciary must be checked by the legislative and should not base their judgement on public opinion. However, it is important to take into consideration the general comments made by the public.
- Law of consent need to be improved. There are different offences which are called petty crimes. It is to be noted that corruption offences are not minor that

it is converted into fines or community service. When the law says that a corruption offence is serious and offer certain penalty, this penalty should be applied/imposed.

- “Some instances, things do not seem to change in any way. The independence of the judiciary is questioned. When you evaluate them, it means you are interfering in their independence. There should be mechanisms put in place. Anti-Corruption commissions should call for evaluation of judiciary. Sentencing is another problem for many countries. Imprisonment or fine? Stiffer sentences should be given by higher court in order to tackle corruption problem well.”
- “Sometimes we require more than the law to fight corruption. You cannot legislate on matters of the heart”
- The judiciary should be accountable to itself- through appropriate mechanisms in place. Evaluation of judges should be undertaken.
- DPP can accede to post of judge if he/she holds the appropriate qualifications but should avoid any conflict of interests.
- Institutionalised corruption should be dealt with in every sector. The judiciary cannot be untouchable.

### **Presentation of country report- Zambia**

#### **ANTI-CORRUPTION COMMISSION ZAMBIA**

*Zambia has laid emphasis on its effort to continue to enforce programs initiated in 2012, while also bringing about innovative initiatives.*

#### **Investigation & Prosecution**

In terms of investigation and Prosecution Zambia has highlighted that there had been 31 arrests country-wide while 13 convictions and 9 acquittals were also recorded as at the end of 2012. They also pointed out that new provisions had been implemented in its legal framework.

## Corruption Prevention

- As regards the Prevention of Corruption, Zambia highlighted that there were the development and implementation of **Vulnerability Assessment and Monitoring Tools** in both the public and private sector institutions.
- They spoke about the introduction and implementation of Integrity Pacts and stated that the number of institutions with **Integrity committee** stood at 34 as at date. Participants of other countries expressed concern regarding the functioning of such committee and questioned whether it is present in all public institutions. Zambia then stated that as per the law, all public institution must set up its integrity committee and that this has improved the fight against corruption.
- Zambia also mentioned the conduct of **Random Integrity Checks** on national programmes of public interest and its **participation in various Tender Evaluations** for the procurement of public goods and services in government Ministries, Departments and Agencies.

Zambia pointed out that for tenders, plans may be requested to ascertain that there is no abrogation and that the work has subsequently been done in the proper way. The idea is to get “value of money”. Zambia averred that the Commission may even have recourse to relevant expert to assess the work as and when required.

Participants also expressed concern regarding the possibility that a bidder may challenge a tender evaluation which has been made with the participation of the Commission. Zambia then stated that so far, only 2 such tender evaluations have been challenged and that the possibility that there had been “compromise” is however unknown to them. As such the stand of their Commission is to follow the tender evaluation process from the opening of the bid itself. They also mentioned that they are however considering reviewing the extent of their involvement in the tender evaluation.

## Public Education

- Rural and urban road shows  
Participants expressed their interest about the organization of road shows further to which Zambia stated that raw areas were also targeted and relevant way to convene the Commission message is carefully chosen. For instance drama in local language is used.

## Initiatives

- Development of an Asset Disclosure System for public officials
- Enhancement of Asset Recovery Programme
- Signature of 2 MoUs to Enhance Good Governance
- Implementation of an Integrated Financial Management Information System (IFMIS) Programme. The Government has now provided **all** Ministries, Provinces and Spending Agencies (MPSAs) with an information technology governance project in order to manage public finances. This is implemented by the Min of Finance.
- Launch of the Facebook Page to Capture the Young People since Dec 2012

## Main Challenges

- Inadequate human and financial resources
- Resistance to technological use in the IFMIS project

Random Integrity checks on projects to ascertain whether specifications and guidelines have been followed. If not, recommendations made to relevant institutions.

## Some issues raised / comments:

- 34 Integrity Committees established
- New anti-corruption Acts provide that each and every public institution should have their own entity set up to fight corruption

## **Presentation of country report- Namibia**

### REPUBLIC OF NAMIBIA- ANTI-CORRUPTION COMMISSION

The Government of the Republic of Namibia through Parliament enacted the Anti-Corruption Act No.8 of 2003 for the establishment of the Anti-Corruption Commission.

The Commission is an independent and impartial body which is only accountable to Parliament through annual report. In order to guarantee that independence and

impartiality, the Constitution of the Republic of Namibia was amended. The Director who is the head of the Commission and the Deputy Director are nominated by the President and appointed by the National Assembly.

#### Mandate of the Commission

The Commission is to receive or initiate and investigate allegations of corrupt practices. It also has powers to arrest when necessary to do so.

The Commission is merely an investigating body and has no authority to prosecute.

***The Commission has also observed that in most cases policies, codes of conduct, rules and regulations as well as appropriate legislations are in place but there is a lack of absolute compliance with such existing legal frameworks.***

#### Community Education

- Workshops and Seminars were conducted for officials from various Ministries and Departments. Anti-corruption awareness campaigns targeting certain institutions have been intensified in view of many reports received concerning non-compliance with policies, misuse of public resources or properties, lack of demonstrable commitment from some supervisors and inconsistency with regard to the enforcement of disciplinary measures.
- Primary and Secondary schools as well as tertiary institutions were visited. Anti-corruption themes and topics are being introduced in the school curriculum. Development of study manuals in this regard is being completed.
- Mini survey on corruption perceptions in order to establish whether the public understands what corruption is, where to report it have been done
- Use of electronic media: anti-corruption awareness adverts on the national radio and other private electronic media institutions in almost all the local languages in Namibia has proved to be a good medium for disseminating information to the public about the dangers of corruption.

### **Initiatives**

- Case Management System is put in place and this helps the Commission to keep its data up to date.
  - The Protection of Whistle Blower Bill is being drafted and will be tabled in Parliament end of this year or early next year.
  - The Criminal Procedure Act is to be amended to introduce Plea Bargaining System
  - Laws on Asset Declaration and Access to information is being drafted
  - Anti-Corruption Unit within the office of the Prosecutor General is established

### **Main Challenges**

- Decentralizing the operations and services to the 13 regions of the country. 2 regional offices have been opened and the 3rd regional office will be opened by June/July 2013.
- Training of the officials, to properly equip them with all the techniques of investigating cases of corruption.

### **Some issues raised / comments:**

- Anti corruption clubs are empowered to conduct anti-corruption campaigns in schools
- Anti-corruption topics /themes included in curriculum for grade 5 to 12 classes.
- Integrity Committees in public organisations
- Road shows in rural areas-sensitising public through drama, video shows etc,

## DAY 3

***Progress of African Commonwealth States in convincing the citizens' need to stand up against corruption. (Tim Steele- UNODC)***

### Group Work

- Present a sensitization campaign and tell us how you measure the impact.
- Select a targeted campaign to identify a specific group and the way which you bring people together to change the norm in a specific region.

#### **Group 1:**

***Countries: Botswana, Cameroon, Ghana***

The NACC in Cameroon targeted communication is the concept of “corrupt free schools”. The objective is to reduce corruption in the school milieu and the sensitization campaigns target the pupils, teachers and the parents as well.

Conduct talks in schools, distribute flyers, sensitization materials and promote the need to say no to corruption. It is to be noted that communication with parents has been carried on since the year 2010. Thanks to these campaigns, there has been a revolution. Previously, it was only the headmasters who choose who will be admitted in schools. Nowadays, there exist admission boards which comprise different members. Now, documents are received regarding admission and it is done on a merit basis. Since these measures have been implemented, it has been noted that there are better admission procedures.

CONAC adhere to vision and coalition. In professional schools there is now the ‘Competitive Entrance Examination’. Agreements allow the CONAC to be present through the whole process from the publication of the announcement, through the exams and marking process as well as the proclamation of results. They assist the whole process because at every stage of this process, there were corrupt practices. Since then there was a perceivable drop in corrupt practices in the school community.

CONAC sensitize the public through mass education programme through audio-visual production, namely 'Espace CONAC'. A TV magazine production of 15 minutes is broadcasted on all channels of the national TV. It serves as a call for the population's support to join the mass and help the anti-corruption commission to bring out more actions against corrupt practices. They also present the success of the commission to the public in order to make them aware that corruption is not a fatality. Since then, there has been a perceivable / dramatic increase in the number of complaints received.

Prior to these sensitization actions, the number of complaints received were 300 monthly but now it has increased to an average of 1000 complaints monthly. People are more ready to denounce corruption since the population has realized that with CONAC, there is no taboo and they are reassured that the complaints received will be investigated irrespective of the person it concerns and the identity of the complainants are protected.

**Group 2:**

***Mauritius & Tanzania***

In order to sensitize their citizens, both countries use mass communication and targeted approach such as billboards, TV clips, radio spots, press advertisements and empowerment sessions targeted for youth at schools, young professionals, new recruits of the public sector, BAGAC, and different components of the population.

Impact Assessment: Conduct of professional surveys, mini surveys, feedback reports, comments/forums on facebook page around regular themes.

We understand that youth will not tolerate corruption as they are the leaders of tomorrow. They understand that corruption is not only an act of bribery but included various offences such as traffic d'influence, conflict of interests amongst others. Over 80 % of the population will report acts of corruption and spread the word about corruption being wrong and discourage their surroundings from doing so.

In Tanzania also there is high public awareness on the issue of corruption. Specific structures have been set up in different sectors such as the private sector, local authorities committees and integrity committees.

**Group 3:**

**Kingdom of Lesotho, Malawi, Kenya, Namibia**

Namibia uses mass campaign such as billboards, media, flyers and radio for mass sensitisation and the impact is measured through the type of reports that they receive. The reports are related to the mandate of the ACC.

Malawi faces problems with subsidies with farmers. The Bureau stepped in as they received a lot of complaints pertaining to malpractices. The bureau has decided to find out about subsidy programmes through interventions, sensitization and come out with reports. Now they are monitoring this area to find out about the impact of their actions.

Lesotho has sensitization campaign included in the school programme and efforts have been made to monitor these programmes which resulted into a reduction in the number of corrupt practices.

Kenya sought the collaboration of its citizens on the issue of Tax payers. In Kenya there are constituencies and the Parliament allocate funds to these. That fund is supposed to be for projects in each area; however, politicians managed to benefit from those.

Citizens mobilised themselves and demanded to be involved in the management of these funds. At the end of the implementation of project, in collaboration with the Tax Payer's association, a report was provided detailing all information and this was made official. These reports were used to carry out investigations.

**Group 4:**

***Nigeria, South Africa, Uganda, Rwanda***

A mass campaign was conducted since South Africa was not independent. There was the need to educate people on election and they used the media to reach the population (for eg: audio , TV, talks and parties coming together to see that it becomes equitable).

Monitoring of elections: Department of home affairs together working forcefully so that the database of South Africa was clean. Those who didn't have an identity card yet received a temporary one so that they can vote. The national registrar of voters notified that there was around 90% of the population who voted.

Results: Number of complaints received increased and there were a high number of prosecutions.

#### **Group 5**

#### ***Mauritius, Uganda, Zambia***

Mass Communication: Rural areas: educate them through dissemination of information and encourage public support.

Number of reports coming to the anti corruption agencies has seen a significant growth. There was also an increase in the quality of reports holding elements of corruption to make a better follow up.

The targeted projects for youth are debate competitions, essays, artistic expression around various corruption topics. There has been an increase in anti-corruption clubs in schools and this has helped to enlighten issues of corruption. The schools respond to issues of corruption by peer anti-corruption groups and peer activities.

**Conclusion:** Tim Steele highlighted that the purpose of mass communication campaigns help to identify criminal behaviour and putting a stop to corruption. The norms need to be shifted to encourage transparency and integrity of the citizens.

**ICPC**

- The ICPC came into being in June, 2000 with the enactment of the Corrupt Practices and Other Related Offences Act, 2000.
- Before the establishment of the ICPC, Nigeria had been stigmatized by the international community as being very corrupt and perceived as the second most corrupt country in the world.
- 5-Year Strategic Action Plan (2013-2017)
- Innovative works:
  - National Values Curriculum: value based education in form of National Values Curriculum. The initiative is a long term plan intended to bring about upright youths, exhibiting the right values acquired right from school.
  - National Anti-Corruption Volunteer Corps (NACP)
  - Anti-Corruption Transparency and Monitoring Units
  - National Anti Corruption Coalition (NACC)
  - Chairman’s Governor’s Forum
- Challenges:
  - Lack of inadequate manpower
  - Conservative bureaucratic approach to issues
  - Geographical spread
  - Inadequate Know-how On Assets Forfeiture & Management
  - Funding
  - Slow judicial process
  - Lack of synergy with other security agencies
  - Social tolerance towards corrupt acts
- The Commission intends to carry out a baseline survey on public perception of corruption and ICPC in 2013 so that at the end of the 5-year strategic Action Plan (2013-2017) a fresh survey would reveal the impact of the implementation of the Strategic Action Plan.

## Economic Financial Crime Commission (EFCC)

- Prosecution of high profile people
- Major initiatives:
  - Creation of new departments
  - Polygraph for staff
  - New MOUs with Australian Federal Police, British Serious Fraud Office amongst others
  - Decentralisation of forensic laboratory section
- One main challenge that remains and that the FIU highlighted is that of big amounts of money being transacted in cash
- Now applies a sectarian approach instead of single cases
- Convicted a few people of the public service pertaining to the pension fraud case
- Highlighted that “if judiciary don’t complement initiatives, we may have issues”

### **Issues raised / comments:**

- Both institutions have separate mandate. EFCC came later to complement the ICPC.
- Magnitude of corruption in Nigeria consequent.
- Research has shown that when people are aware that they are being watched, they will be less prone in indulge in malpractices.
- Polygraph test an important aspect. Integrity check is also performed.

## Corruption Opinion Survey by Namibia ACC

Private Sector Survey to determine the existence of the framework on fighting corruption and promoting good governance

The Survey was partly funded by the Commonwealth secretariat.

ACC collaborated with the Polytechnic of Namibia to conduct the survey

**Objectives:** To provide information for evident-based decisions during anti-corruption policy formulation and programme planning and implementation. To provide baseline data in the private sector for an on-going corruption monitoring

### **Methodology**

- Census (for Medium National Enterprises)
  - Surveyed (Small enterprises)
  - Web based questionnaire
  - Telephonic interviews
  - Faxing of questionnaire
  - Data exported into SPSS for analysis of table and graphs
- 
- The target population was the private and state owned enterprises in Namibia.

The enterprises that participated in the survey were the small, medium, large, corporate and national corporate as classified by the NCCI.

### **Components**

- Existence of Anti-Corruption framework
- Implementation of the anti-corruption framework
- Risk management implementation
- Framework implementation Monitoring

### **Data Transformation**

- Based on some guidance, policies and previous studies, variables (direct measures) on corruption were developed and computed during data management and analysis.

### **Existence of Framework**

- The medium to national and small enterprises had written guidelines, code of conduct and policy in place

- 80% of the medium and national enterprises have the anti-corruption framework focusing more on employees.
- The training, disclosure and procurement activities the proportion ranges from 28% to 80%
- Small enterprises proportion ranges from 23% to 70%.

### **Summary of findings**

- 92% and 73% of the medium to national corporate and small enterprises respectively, have the anti-corruption framework in place
- Medium and large national enterprises have a lot of activities on training for employees, activities to monitor in order to make sure that corruption is decreasing.
- None of the businesses they interviewed has polygraphs.

### **Recommendations**

This study will help them to have more guidelines to increase good governance and transparency.

Use the findings of the survey as a baseline and repeat the survey every two years

### **Issues/Comments Raised:**

- Implementation Policy: Through the data gathered, it shows that they have policies, guidelines and tools to prevent corruption.
- 2 years ago, a public perception survey known as urban corruption survey was conducted. It was not necessarily in the public sector but more the public in general. It was in Namibia's plan to conduct another survey for the public sector and we are reaching there.
- In terms of actual target, a census was done and a response rate of more than 60% for the questionnaire was received. One of the challenges was based on the nature of smaller business which sometimes is not in operation or there are no communication channel. Therefore the response rate of small businesses is only 20%. Access to the internet was an issue and in the next survey, the internet survey may be eliminated.

- It was outsourced so that the results would be reliable but the commission worked with them to develop the questionnaire which was sent directly from Polytechnic of Namibia. At first, people did not want to respond to the questionnaire but then the Director had to write to the businesses to ask them to send back the questionnaires.
- Education did contribute to the reduction of corruption. Results give us some more leverage power in this area. The financial sector is doing very well. This is an indication to maximize efforts in the private sector. This survey is a baseline to guide the public sector in being corrupt-free enterprises.

## DAY 4

### Country Report – South Africa

**Cooperation:** Developed close working relationships with:

- law enforcement: SAPS (especially the Hawks), NPA
  - Treasury bodies: Accountant-General, SARS, Financial Intelligence Centre
  - oversight bodies: Auditor-General, Public Service and Administration (DPSA)
  - Legislatures: Public Accounts Committees – national, provincial, municipal
  - chapter 9 institutions: esp. Public Protector
  - individual departments, provinces and other state institutions
- **Focus areas:**
    - increasing focus on procurement related fraud and corruption matters
    - assist with improving systems and processes to prevent corruption
    - use of data to identify potential irregularities pro-actively
    - assist the Departments with Anti-Corruption strategies

**There are some key legislative Acts addressing corruptions in South Africa:**

- Local Government : Municipal Finance Management Act {No 26 of 2003}
- Protected Disclosures Act {No 26 of 2000}
- Promotion and Combating of Corrupt Activities Act [No 12 of 2004]
- Public Finance Management Act {No 12 of 1999}
- Public Service Act Proclamation 15791 {Published in Government Gazette 3 June 1994}
- Prevention of Organised Crime Act (POCA)
- Competition Commission Act (unfair business practices)
- South African Revenue Act

**Challenges**

- Limitation of scope of work
- Legislative restrictions

- Multiple parallel processes
- Funding model
- Mixed perceptions from the public

### **The way forward**

- Further amendments to the SIU Act
- Strategic review to realign and reboot
- Participation in regional and international conferences to learn best practices
- Increase public awareness
- implement an electronic case management system

### **Issues raised / pertinent remarks:**

Participants purported that South Africa has one of the best constitution in Africa and inquired whether all the institutions engaged in the fight against corruption were protected by the Constitution and whether wouldn't it have been better for the present mandate to be included in the constitution? The response of SIU delegate was that all the institutions engaged in the fight against corruption are protected. It was also pointed out that their mandate is to be amended for them to have more power

Participants also sought clarification regarding the fact that investigation is only initiated upon the receipt of a proclamation from the President and participants enquired about the average number of proclamation sent yearly. The SIU then pointed out that since 2001, 168 proclamations have been issued to the SIU. There are currently 25 which are being worked upon, out of which 18 are to be finalised. SIU delegate also pointed out that 1 proclamation can cover a lot of issues like conflict of interest, maladministration etc.

Observation was also made by participants regarding a recent interference in the work of the Public Protector by the SIU. There were also concerns in respect to the multiple parallel processes made by different agencies tackling the same matter, resulting in miscommunication, overlapping and confusion.

## Impact of CPI on Commonwealth African Countries as a Benchmark

*Presentation by Tim Steele, Mrs B. Strobel-Shaw*

### **Corruption Perception Index (CPI):**

- An Annual Perception Survey
- Not the actual index which is the problem but the way it's made up
- Broad indicator – difficult to use for comparative purposes
- A public relations issue : media and press
- CPI: an annual public relation challenge!
- Adopt pro-active policy before CPI is released: publicize good case examples / successes
- If there is a drop in ranking, it may be attributed to methodological issues
- There is no perfect indicator
- No universally accepted alternative: CPI second best option

### **Issues raised / comments:**

- Each country should undertake its own perception/opinion surveys
- Accomplishments publicized to showcase achievements
- TI on board - will be invited for the next conference

## Country Paper - Tanzania

### **Prevention and Combating of Corruption Bureau (PCCB)**

- PCCB New Structure
- Department of Planning Monitoring and Evaluation
  - i. Planning Budgeting and Statistics
  - ii. Monitoring and Evaluation
- Level of Implementation (District, Regions, zones and HQ)
- Management System
- Participation of stakeholders and other Partners

## **Objectives**

PCCB strategic plan has five objectives:

1. HIV and AIDS infections reduced and supportive services improved
2. Implementation of NACSAP II enhanced and corruption incidences reduced
3. Working conditions and environment improved
4. Corruption reduced and
5. Resource management improved.

## **Challenges**

1. Inadequate resources (financial and Human)
2. PCCB Lawyers are not allowed to prosecute our cases at High Court and Referral Court,
3. Witnesses turn hostile,
4. Grand Corruption cases and others takes long time in the Courts,
5. Public perception on corruption,
6. Political Will, and
7. Stakeholders are not implementing agreed recommendations from research conducted at their respective sectors.

## **Achievements**

- There are positive progress of the organization as target set into the Strategic Plan are met by departments, units and regional offices
- Strategic Plan as a tool enabled PCCB to be on track on its daily activities and be able to monitor and evaluate the organization performance and make good decisions regarding the agreed targets and results
- Increased number of files send to DPP
- Increased number of files returned from DPP with consent
- Distribution of Printed Materials
- Radio and Television
- Research
- Monitoring of implementation of the agreed recommendations
- Quick Control on Corruption loopholes

## **Reflection**

- The last chapter of Strategic Plan focuses on result framework which shows the linkages or result chain of input, activity, output and outcomes.
- PCCB uses M & E tools to track its performance. Through collection of data from all sources, consolidate and make analysis then advise management accordingly.
- Currently outcomes seen through public awareness on corruption, this is a major milestone PCCB achieved on the prevention side.
- Also the Anti-corruption indices of Transparency International and Ibrahim Mo, etc shows the results of the efforts done by PCCB in Tanzania

## **Lessons Learned**

- Always we should be focused when developing targets, through smart paradigm. Otherwise plan will not be implemented as you wish and will not realize the intended objectives.
- Strategic Plan is a major tool to guide the organization towards success. It should be reviewed to reflect the challenges and critical issues faced during the implementation.

## **Conclusion**

- Strategic plan provides a clear guidance to the organization if planned and resourced well.
- During implementation, monitoring and evaluation are very crucial to track individual and organization performance.
- Therefore, SP is a major tool guiding staff and management on the direction the organization should take.

## **Issues raised by participants**

Participants inquired about the reasons for which lawyers of the Commission are refused pleading in high Court. Tanzania mentioned that this issue goes back to their Constitution but that the Commission is struggling for the Constitution to be amended in that respect.

### Background Information

- **The Inspectorate of Government (IG)** established as department in office of the President in 1987
- Enactment of the Inspector General of Government Act in 1987

### Functions of the IG (s.8 of IG Act and Article 225 of Constitution)

- to promote and foster strict adherence to the rule of law and principles of natural justice in administration;
- to eliminate and foster the elimination of corruption, abuse of authority and of public office;
- to promote fair, efficient and good governance in public offices;
- investigate and cause investigation of act or omissions and decisions, in public office

Offices are supposed to be opened in districts and there are 16 today

### TAAC IN NUSAF II

The IG is involved in implementation of NUSAF II, as a measure to ensure transparency and accountability, in line with its mandate to ensure good governance and prevent abuse of authority in public offices as well as to prevent corruption.

NUSAF II is worth USD 100 million from IDA and 24 million pounds from DFID

Expected to run from 2009 to 2014.

Three components of NUSAF II are:

- Livelihood investment support;
- Community infrastructure rehabilitation;
- Support to project implementation at national, district, sub-county and community levels in order to improve accountability and transparency in use of project resources.
- NUSAF II is implemented by Office of Prime Minister in 55 Districts in N/Uganda;
- TAAC is the oversight program meant to ensure transparency in
  - Fiduciary matters
  - Regulation

- Gender equality
- Social accountability, both in communities and government agencies

Specific TAAC activities include:

- Community level transparency through Social Accountability Committees (SACs)
- Ensuring presence of grievance reporting and handling mechanisms
- Support of audit, financial and procurement management systems
- Built in mechanisms of rewards and sanctions
- Participatory monitoring tools

#### **Innovations under TAAC**

- New systems of accountability based on citizen participation and engagement
- Development of grievance handling systems
- Increasing accessibility of the IG to citizens

#### **Achievements under TAAC**

- Implementation of the Social Accountability Community Monitoring (SACM), through fostering an IG/Civil society partnership
- It will result in training of 1,500 communities on their roles and responsibilities in the project and as citizens; training in
  - community monitoring skills,
  - reporting corruption, and
  - documentation of their activities
  - Development of a new remote monitoring system which will equip community trainers with mobile handsets.

#### **Challenges**

- Program has 9000 sub-projects in 55 districts
- They are expected to increase to 15,000 by end of 2014 and there is a challenge envisaged in planning training activities for participants

- Literacy levels in project areas are low yet members of projects are expected to keep their own records of activities
- Demand for public awareness programs has increased leading to serious constraints for IG in this area.

### **Lessons Learnt**

- Presence of IG at grassroots has enhanced demand for accountability in communities
- In TAAC implementation IG has received support from various stakeholders
- Result is an increase in efforts to engage communities to demand for accountability and transparency in implementation of government programs
- IG had began on an effort to develop a framework for engaging civil society to train communities to demand for accountability in one area of service delivery (education)
- Mismanagement of public funds in the implementation of programs in N/Uganda has been curtailed in NUSAF
- Agencies and ministries have proposed that IG participates more in monitoring government programs in the same manner; eg USMID and UPPET.

### **Conclusion**

ACA require more support from governments in order to enable them effectively implement their mandates.

### **Issues raised by participants**

Participants enquire about the existence of an oversight committee to measure performance. Delegate of Uganda pointed out that they have a vote in the consolidated fund which imply that that they have to state how much they need from that fund. Audit will be made in respect to how the fund has been spent.

Delegates of Uganda have stated that there was the need for the Commission to be protected from the Executive, by the Constitution.

### Background Information

- The **Office of the Ombudsman** is an independent public institution which was established by the Constitution of the Republic of Rwanda of 04 June 2003
- The Office of the Ombudsman has been instituted for strengthening good governance through prevention and fighting against injustice, corruption and other related offences.

### Mission of the Office of the Ombudsman

- Acts as a link between the citizen and public/private institutions;
- Prevent and fight against corruption and other related offences in public and private administration;
- Receive the faithful declaration of assets from High ranking senior officials and civil servants involved in public property management;
- Monitoring the implementation of the Leadership code of conduct regulating high government officials' behaviour;
- Coordinating the National Anti- Corruption Advisory Council composed by The Office of the Ombudsman, National Public Prosecution Authority, Supreme Court, National Security Service, Rwanda National Police, Ministry of Local Government and Ministry of Justice.

### Anti-Corruption Initiatives

- National anti-corruption Policy
- Conducting operational audits in public and private
- Targeted training session & Sensitization campaigns
- A quarterly Umuvunyi Magazine sensitizing population to fight corruption is distributed free of charge
- Establishment of the Anti- Corruption Advisory Council at National, District and Sector levels;
- Organizing good governance competition

- Publishing the list of convicted persons for corruption in newspapers, in Umuvunyi Magazine and on the Ombudsman website;
- Monitoring the implementation of the code of conduct regulating high government officials' behaviour
- Annual assets declaration by public officials provided by the law; since 2011 assets are declared using online system
- the anti-corruption clubs are operational and contribute in different activities such as:
  - Receiving complaints and submit them to the Office of the Ombudsman using their Cyber Cafés
  - Help the Office to conduct investigations when the case requires a big number of investigators to collect information
  - Help the Office to train and sensitize citizens on how to prevent and fight corruption

### **Statistics/Results**

- People convicted by courts for corruption
  - In 2010: 195
  - In 2011: 179
  - In 2012: 111
- Operational Audits of Institutions
  - 2007: 23 institutions audited
  - 2008: 16 institutions audited
  - 2009-2010: 21 institutions audited
  - 2010-2011: 16 institutions audited
  - 2011-2012: 26 institutions audited

### **Challenges faced**

- Limited resources to accomplish the mission of the Office of the Ombudsman;
- Resistance in implementation of Ombudsman's recommendations by some institutions;

- The law which doesn't provide to the Office enough powers ;
- The Rwandan culture which used to take some corruption behaviours as a normal and lawful practice.

### **Strategies to overcome challenges**

- The Office of the Ombudsman is dealing with the government so that the operational budget can be increased;
- The Law establishing the organisation and functioning of the Office of the Ombudsman is being amended so that the Office of the Ombudsman acquires the prosecution power. This will help in following some cases initiated by the Office up to court;
- The Office has developed partnership with different institutions in fighting corruption and maladministration;
- The Office has intensified sensitization of the population on reporting and rejecting corruption.

### **Expectations from the Conference**

- Sharing good anti-corruption initiatives of Commonwealth countries
- Learn from experiences of those countries
- Assistance in enhancing human resource capacities
- Enhance partnership

### **Issues raised by the participants**

Participants raised concern in respect to the decline in the number of conviction in 2012. It was also noted that some people consider that the fact that the list of convicted persons being published in the newspaper is still not enough.

Participants also enquired about the challenges that Rwanda had faced in respect to its "online declaration of asset". Delegate of Rwanda purported that same was launched in 2011 but network problems have been encountered in some districts. They have however

pointed that the declaration is opened from January until June and that as such people have ample time to make their declaration.

## Country Paper - Sierra Leone

The **Anti-Corruption Commission** established in 2000

- 2000 Act more symbolic than effective
- Little independence
- Few Offences
- Reliance on the AG
  
- Act amended in 2008 bringing significant changes
  - greater range of offences
  - Assets declaration regime
  - Security of tenure for commissioner
  - Wide ranging powers of investigations
  - Power to prosecute
  - Possibility of stiffer punishment
  
- Wider range of offences including
  - Accepting an advantage
  - Soliciting an advantage
  - Corrupt Acquisition of Wealth
  - Possession of Unexplained Wealth
  - Peddling Influence
  - Conflict of Interest

Effects of the amended act

- Increased number of prosecutions with a very high rate of success
- High profile inductees (*Ministers, Mayor, Judges etc.*)
- Generally a greater confidence in the work of the commission

### Three Pronged Approach

- Education
- Investigation & Prosecution
- Prevention

### Misgivings and Hesitations

- Judicial “Conservatism”
- Appellate Reversals
- Lost clear cut High Profile Case
- Convictions with low or “unlawful fines”
- Political Will not filtering through.....
- Utterances of Ministers , MP, P.Chiefs

### General Activities to enlist the public support

- National Dialogue Forum
- Schools Campaign (Integrity Clubs)
- Integrity Committees in Public Institutions
- Community based events
- Annual Integrity Awards
- Promotional materials
- Radio and TV programs
- Partnering with Theatre Groups
- Anti Corruption Jog

### Targeted Events/Initiatives

- District Coordinators
- Customized meetings for Institutions
  - ❖ NRA
  - ❖ Police
  - ❖ Chiefs
- Customized meetings on Public Interest Issues

- ❖ Free Health Care
- ❖ NASSIT Pension Scheme

- Audit Service SL
- Public Reform Secretariat
- Parliamentary Sub Committee on Transparency

### **Issues raised by participants**

Participants enquired about integrity award. Delegates purported that nomination are invited and persons are nominated by the public. Mention was also made that the award is not in the form of resources but is instead in the form of a trophy.

