

Chapter 4

Lesotho

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Summary

During 23 years of autocratic rule, corruption in the Kingdom of Lesotho was widespread and people considered it a way of life. This was understandable, since these years were characterised by suppression of the media, a dominant bureaucracy and weaknesses within law enforcement agencies. The collection of data to support allegations of corruption in the country was also seriously constrained and all the oversight bodies were paralysed.

Since the return to multi-party democracy in 1993, successive governments have shown sustained commitment to combat corruption in the country and extended participatory rights of citizens. The successful trials of several senior public officials – including a number of members of the executive and multinational corporations – for alleged involvement in corruption (bribery and public funds embezzlement) has proved to be an important milestone in the country's fight against corruption. The restoration of civilian rule and the democratisation process guaranteed the protection of rights and civil liberties of citizens including freedom of speech, promoted freedom of the media and reinstated oversight bodies. Taken together with advances in media technology, these factors changed the environment for reporting corruption in the country.

Lesotho has enacted a number of laws to address the problem of corruption over the past two decades. These include the Prevention of Corruption and Economic Offences Act No. 5 of 1999, which established the Directorate on Corruption and Economic Offences (DCEO), and its amendment of 2006, which requires public officials to declare their assets; the Income Tax (as amended) Act No. 10 of 1993 to counter tax evasion and fraud; the Money Laundering and Proceeds of Crime Act (MLPCA) No. 4 of 2008, which established the Financial Intelligence Unit (FIU 2014) with the core mandate to fight money laundering and terrorist financing offences; and the Public Service Act of 2005 and its corresponding public service reform programme. These were all aimed at professionalising public administration, improving the capacity of the civil service and curbing nepotism and cronyism. To stop corruption in procurement processes, the government passed the Public Procurement Act and its accompanying regulations in 2006. These instruments established thresholds for use of procurement methods, bid evaluation procedures and contract management.

The DCEO was established in 1999 to drive the fight against corruption. It is mandated to investigate complaints; prosecute suspected cases of corruption and economic crime working together with the Directorate of Public Prosecutions (DPP),

and prevent corruption through public education and public awareness of the ills of corruption.

However, the factors that pushed Lesotho to launch the anti-corruption drive and, as a corollary, to draft anti-corruption strategies are not clear; whether it was a donor-driven initiative or a purposeful plan by the political regime that had just taken over power is not known. Nonetheless, it could be argued that both internal and external factors – in particular, the global anti-corruption movement and push for democratic governance that gathered momentum in the 1990s and donor influence – played a role in the launch of the anti-corruption drive.

From the onset, the DCEO adopted a three-pronged strategy – public education, prevention, and investigation and prosecution – to fight corruption. The adoption of this strategy was in line with international best practices of places such as Hong Kong that have successfully implemented anti-corruption strategies. It facilitated the ‘whole government’ approach to combating corruption and mobilised different sectors of the society against corruption. To enhance its efficiency and enlist and foster public support in fighting corruption and economic offences, it formed some sectoral structures: the District Anti-Corruption Committees (DACCs), Systems Integrity Committees (SICs), Business Action Against Corruption (BAAC) and Students Integrity Associations (SIAs). It prevented the impact of corruption and economic crime through system strengthening across government ministries and examined systems and procedures of government and public bodies to identify corrupt practices or those with the potential to lead to corruption. It also provided impartial and independent advice to organisations and individuals (public and private) on preventing corruption/economic crime and reducing its likelihood. In the process, it made public those systems and procedures of government and public bodies where corruption/economic crime and/or its potential had been identified.

The DCEO devoted a lot of resources to educate the public about the negative effects of corruption – through public outreach involving the media, in public assemblies at community level and in workshops for strategic groups such as parliamentarians and principal secretaries. These campaigns were also carried out at national expos and festivals. In addition, the DCEO organised biannual national school debates on corruption and its debilitating effects, and distributed sensitisation and educational materials.

The directorate carried out analyses of the operational systems and procedures of institutions with a view to identifying any existing opportunities for corrupt practices and then proposed practical measures for minimising their occurrence. Following such an examination, it would establish internal self-monitoring Systems Integrity Committees (SICs) to guide institutional reforms where appropriate and subsequently strengthen the systems. This was made possible by the strategic partnership it formed with similar institutions that have a stake in the fight against corruption. This partnership – named DIAAL after the initial letters of the institutions involved – consists of the DCEO, Internal Audit, Accountant General’s Office, Auditor General’s Office and Lesotho Mounted Police Services (LMPS). The goal of forming such a partnership was to solicit and enlist public support in the fight against corruption.

The anti-corruption fight also included the establishment and strengthening of the parliamentary oversight bodies and institutions such as the Public Accounts Committee (PAC); strengthening of government financial accounting, internal audit systems and laying foundations for the procedures for integrated financial management system across government ministries; and strengthening of the Office of the Auditor General. In addition to strong accounting and auditing systems, the government has laid emphasis on building strong institutions to stand the test of time in the fight against corruption.

Evidence in support of the effectiveness of these anti-corruption strategies has been the trial of several individuals for suspected corruption and more than 1,718 reported corruption cases between July 2004 and July 2013. Some of these cases have been successfully prosecuted. Further evidence is provided by the FIU, which reported more than 569 fraud cases of money laundering and possible proceeds of crime to the LMPS and forwarded 222 corruption-related cases to the DCEO (FIU 2014). The fight against corruption has impacted positively on a number of sectors such as the Ministry of Home Affairs, where corruption took place over decades in passport issuance. The ministry boasts an electronic system that uses biometrics and has reduced inefficiencies and subsequent corruption in the form of bribes, which were paid to obtain travel documents. In terms of the impact on revenue collection, the government has been able to increase this by more than 191 per cent, from M1.37 million in 2003/04 to almost M4 million in 2012/13, and total tax remittance has increased by about 238 per cent over a 10-year period holding other factors constant.

The key factor leading to success in fighting corruption always starts with political will at the level of policy-makers. The fact that Lesotho was able to enact appropriate laws, establish institutions and permit these institutions to perform their duties as mandated by law, even when the odds were not in their favour, is quite critical. During the period under review, the DCEO worked closely with all other law enforcement agencies including oversight institutions, the police, the Tax Revenue Authority and the Auditor General's Office. The directorate also worked well with all other sectors of society, a typical example being the successful holding of the National Dialogue on Corruption in 2013, in which about 250 stakeholders drawn from all sectors of society participated. This national dialogue resulted in the development of the National Anti-Corruption Strategy and Action Plan 2014/15–2018/19. However, DCEO has been leading the fight against corruption and made huge progress with tangible results without much resource capacity in terms of personnel and financial resources.

In the public sphere, the most important anti-corruption forces are sound ethics and a strong sense of public responsibility. But ethical values are often outweighed by other factors: poverty, political pressure, increasing social inequalities and political competition that may induce officials to do wrong. Lesotho's experience further provides a lesson that even where traditions of corruption are so entrenched that one could believe it is almost impossible to eradicate them, efficiency of systems in service delivery driven by political will and societal ethical transformation can change people's incentive to engage in corrupt activities. However, several challenges remain

that could reverse the gains made so far. These include: inefficiencies in delivery of justice with some cases taking two to three years on average before a verdict; weak accountability systems across certain institutions and underfunded oversight bodies; lack of skills such as forensic audit and investigative journalism; absence of a rectified access to information bill; and increasing socio-economic problems (e.g. inequalities and unemployment levels estimated at more than 25 per cent of the labour force).

This modest victory notwithstanding, corruption continues to hit hard in some sectors of the economy and remains a dominant discourse of complaint in the country. Petty corruption remains an acute challenge in the Ministry of Works and Public Transport, and people still have to offer bribes to obtain driving licences. This has been partially blamed on the breakdown of systems and weak accountability mechanisms in the ministry and has led to the erosion of public trust in the government and fuelling of inequalities as those who pocket bribes become richer and their clients poorer.

The report recommends further strengthening of systems of accountability, increasing resources to the DCEO and continuous cultivation of ethics among public servants and communities in general.

4.1 Introduction

While it is generally accepted that Lesotho has made noticeable progress in its anti-corruption drive, corruption continues to exist in some sectors of the economy and it continues to be a dominant discourse of complaint in the country. This is perhaps because the fight against corruption was popularised by some political parties during the run-up to the 2015 national elections. Some of these parties blamed what they called ‘rampant’ corruption during the Lesotho Congress for Democracy (LCD)-led administration for many economic, political and social problems in the country. Yet a deeper reflection on this dominant discourse reveals people’s disappointments with democracy and development and their frustrations with continued social inequalities. There is no doubt that the fight against corruption in Lesotho is a modest success story. But which key institutions and actors within the country have taken a lead in the fight and in reducing its impact? What are the factors that led to the lifting of the cloak of secrecy from corruption? What are the factors (both technical and political) that supported institutions to implement successful anti-corruption strategies and expose corruption cases? What is the impact made by these institutions and to what extent have they been able to facilitate the ‘whole government’ approach to combating corruption?

This case study considers these questions and also investigates how the anti-corruption institutions have worked with groups such as political parties, civil society organisations, development partners and the private sector in the course of their efforts. It starts by tracing the anti-corruption drive in Lesotho from the early 1990s and examines the success and limitations of various strategies pursued. The conclusion discusses the challenges these institutions face in their anti-corruption efforts and makes recommendations.

4.1.1 Methodology

This case study relies on information obtained from several sources. These include the Directorate of Corruption and Economic Offences (DCEO), the Office of the Ombudsman, the office of the Department for Public Prosecutions (DPP), the United Nations, Transparency International, the World Bank and the media houses. Data used in this study include corruption cases (i.e. cases under investigation and court verdicts involving people of different social standing including those who were members of the executive and public service administration and ordinary citizens suspected of corruption) filed with the DCEO. The criteria used to select the cases were as follows:

- corruption allegations since 2004–2013;
- cases that are currently in or have been settled through formal legal proceedings; and
- cases exposed publicly and settled in court.

Given that the DCEO has its headquarters in Maseru, although it co-ordinates all anti-corruption efforts in the country, most of the data were collected in Maseru. This is also because a number of non-governmental organisations (NGOs) that work to promote justice for the poor are based in the capital. However, the study still included a broad spectrum of representatives from business people at district level, especially in its focus group discussions. The procedure for the selection of representatives from business people was based on a database filed with the Lesotho Chamber of Business and Business Action Against Corruption (BAAC). The following qualitative research methods and procedures were also employed:

- a. Collection and analysis of mass media corruption stories, investigation results, documentation by the DCEO and legal documents (i.e. charges, indictments and court verdicts).
- b. In-depth interviews with respondents from NGOs, journalists, some corruption suspects and representatives from law enforcement agencies. Interviews were also conducted with local DPP offices and executive officials from several institutions involved in the fight against corruption, ordinary citizens at various public service points in Maseru, representatives of various embassies in Lesotho, private sector representatives, business organisations, the Office of the Auditor General, the Minister of Justice and Correctional Services, the Public Accounts Committee, the Office of the Police under Crime and Investigation Unit, representatives of commercial banks and the office of the Prime Minister. Approximately 120 respondents were interviewed. The procedure for selection of individual respondents was random and relied on individuals who were available at a point of service during the survey days, while institutions were selected based on their level of involvement in the fight against corruption. Information on these institutions was obtained from the DCEO.
- c. Focus group discussions were held to complement findings from document reviews and interviews. Five focus groups were conducted with a minimum of four participants including local anti-corruption actors, academics and law enforcement.

4.1.2 The political context

For decades the Government of Lesotho has been grappling with the problem of corruption. During the 23 years of autocratic rule, corruption was widespread and people considered it a way of life. This was understandably so, since these years were characterised by suppression of the media, a dominant role played by the bureaucracy and weaknesses within law enforcement agencies.¹ The collection of data to support allegations of corruption in the country was seriously constrained and all the oversight bodies were paralysed. When the democratically elected government assumed power in 1993, corruption was pervasive in the public service and public institutions (APRM 2011). The restoration of civilian rule and the democratisation process, which started in 1993, guaranteed the protection of rights and civil liberties of citizens, including freedom of speech, promoted freedom of media and reinstated oversight bodies. Taken together with advancement in media technology, these actions changed the environment in terms of reporting corruption in the country.

Beginning in 1999, there was a wave of corruption allegations starting with the case in which Masupha Sole, who was the chief executive in charge of the donor-funded multibillion-dollar Lesotho Highlands Water Project, was sentenced to 18 years in prison for 11 counts of bribery and 2 of fraud. What made the case extraordinary was that bribe-paying multinationals were also in the dock in Maseru. Several incidences of suspected corruption committed during the 7-year rule of the military regime and the 16-year rule of an autocratic regime were also brought to light.² These included high-level involvement in drug trafficking and the sale of fraudulent passports in Hong Kong (Scott and Weisfelder 2013).

Following this ground-breaking case, the government set up the Directorate on Corruption and Economic Offences (DCEO).³ The DCEO was mandated to investigate complaints, prosecute suspected cases of corruption and economic crime working with the Directorate of Public Prosecutions (DPP), and prevent corruption through public education and public awareness of the ills of corruption.

However, the factors that pushed Lesotho to launch the anti-corruption drive, and as a corollary to draft the anti-corruption strategies, are not clear; whether it was a donor-driven initiative or a plan by the political regime that had just taken over power is not known. Nonetheless, it could be argued that both internal and external factors – in particular, the global anti-corruption movement and push for democratic governance that gathered momentum in the 1990s, and donor influence – played a role. The anti-corruption drive included the establishment and strengthening of parliamentary oversight bodies and institutions such as the Public Accounts Committee (PAC); strengthening of government financial accounting, internal audit systems and laying foundations for the procedures for integrated financial management systems across government ministries; and the strengthening of the Office of the Auditor General. In addition to strong accounting and auditing systems, the government emphasised building strong institutions that would stand the test of time in the fight against corruption. For instance, in 1993, the country passed the Income Tax (as amended) Act No. 10 to counter tax evasion and fraud.

Subsequent exposures led to a pronounced increase in the number of corruption cases involving misappropriation of public finances, fraud, abuse of power, conflict of interest, tender manipulation and bribery, and some of the perpetrators were convicted. It is precisely this kind of exposure and convictions in corruption cases, and the emergence of community-level actors willing to advocate in the fight against corruption, that has distinguished the landscape over the last decade. Many other cases have gone to trial through the courts of justice and are pending the courts' decisions. The indictment and conviction of some powerful figures, including both sitting and former ministers, for separate incidents of corruption has sent a strong signal to the world that the government is firmly committed to fight corruption.

The anti-corruption progress made to date is evidenced by a continued improvement in several corruption perception indicators. For instance, the Transparency International Corruption Perception Index shows that in 2012 and 2013 the country received a score of 45 and 49 respectively on a scale that ranges from 0 (most corrupt) to 100 (least corrupt). This score placed Lesotho at position 6 in sub-Saharan Africa and position 55 on the global scale (World Bank Institute 2014) on perceived public sector corruption. In 2014, the World Governance Indicators ranked the country at position 61 in terms of control of corruption on a scale from 0 (lowest control of corruption) to 100 (highest control of corruption). This reflected an improvement from rank 43 attained in 2003, the year in which the DCEO was established (World Bank Institute 2014). Since 2009, the World Governance Indicators have consistently ranked the country above 60 out of 100 in perceptions about control of corruption. This progress has been applauded by a number of international bodies such as the Millennium Challenge Corporation, the World Bank and the United Nations Development Programme (UNDP).⁴

4.1.3 The nature and dimensions of corruption

Despite noticeable progress, the following forms of corruption were identified as continuing to frustrate anti-corruption efforts in the country.

Bureaucratic corruption/petty corruption

Key informants noted that this kind of corruption continues to be part of citizens' everyday life in the Ministry of Works and Public Transport. In a survey of more than 400 drivers in the Maseru, Letete et al. (2014) found that more than 60 per cent of the respondents had paid a bribe to obtain a driving licence. Focus group discussions also highlighted that corruption in the traffic department remains pandemic although highly secretive. Discussions with staff at the ministry revealed that systems and procedures of accountability have collapsed, and that they are in the process of instituting new systems. Interviews with the Private Sector Foundation revealed that petty corruption is still common in government procurement. Businesses lament that 'to get contracts we must pay bribes and to get paid after delivery of service we must pay bribes as well'.

Corruption in procurement has led the business community to overcharge the government to such an extent that sometimes procured services or goods are sold

at two to three times their true prices. The predatory nature and the desire of the bureaucratic elite to plunder state coffers are due to a number of factors. First, there seems to be immense financial pressure on civil servants due to depressingly poor wages, particularly in the period prior to 2012–2013, increasing pressure on young people to adopt modern lifestyles accompanied by conspicuous consumption and popular association of elites with self-aggrandisement. Second, polarised partisan politics mean that elites at any point in time cannot hold their fellow members accountable over the use of state resources. Bureaucratic corruption strains government resources and stifles the provision of public goods and services. However, discussions with various stakeholders indicated that measures are under way to circumvent corrupt practices in procurement processes. For instance, the Ministry of Finance is undertaking a review of the existing public procurement legal framework and intends to develop a new public procurement policy and related legislations under the Enhancement of Public Financial Management Project.

Grand corruption

Interviews with the business sector, members of civil society and the DCEO showed that, although grand corruption is not a major threat in the country, there have been instances of its occurrence such as the Lesotho Highlands Development Authority (LHDA)–Soli bribery scandal (Maema 2003, Hatchard 2004), the block farming scandal (Ralengau 2013) and the Nikuv passport scandal (*Lesotho Times* 2014). A more recent scandal relates to the investigation of the Nthane Brothers PTY (Ltd) for supplying faulty road works as part of a government contract (Ntaote 2014).

Political corruption/favouritism, nepotism and clientelism

This type of corruption continues to be rife and manifests in different forms, including bribery paid in order to secure jobs in both the public sector and the private sector,⁵ extortion, cronyism, nepotism, patronage, influence peddling, graft and embezzlement of state resources (Heritage Foundation 2014). Between 2004 and 2013, more than 50 per cent of cases reported to the DCEO involved bribery and misappropriation of public funds (DCEO 2013). The political and economic ‘reforms’ of the early transition phase lessened political corruption during the period 1993 to 2011. However, following the change of power from the LCD-led administration to the All Basotho Convention (ABC)-led administration in 2012–2013, political corruption resurfaced.

A vivid example of this was the blatant replacement of all principal secretaries and high-level public servants – including the commissioners of Independent Electoral Commission (IEC)⁶ – based on their political affiliations. This resuscitated the nepotism, patronage and cronyism in public sector that had previously been experienced in the early 1970s and late 1980s. After the breakdown of the first coalition government in 2015, the second coalition government once again replaced the principal secretaries appointed during the previous regime by their politically compliant principal secretaries. Focus group discussions with the private sector and civil society organisations revealed that such patronage appointments were a strategy

to retain loyalty but have rocked the country and caused instability. Depoliticising the civil service remains a challenge given the competitive nature of Lesotho patronage politics and the current pressing socio-economic problems of high unemployment, poverty and inequality confronting the country.

4.2 Anti-corruption reforms and their efficacy

4.2.1 The DCEO and anti-corruption legal reforms

As stated earlier, Lesotho established the DCEO in 1999 but it started its operations in 2003 with a staff of five people – a director, two investigators, a prosecutor and a court conveyer – contrary to the requirement by the law establishing the DCEO office, which provided for a staff complement of 103 people. From the outset, the DCEO set itself an ambitious target of promoting zero tolerance to corruption and economic offences through a three-pronged strategy of public education, prevention and investigation and prosecution in conjunction with all sectors in society. The adoption of this strategy was in line with the international best practices of places that have successfully implemented anti-corruption strategies such as Botswana and Hong Kong. Karklins (2002) states that anti-corruption work among public administrators and high-level officials can help, but in the long run the mobilisation of democratic forces from below and the forging of civil society are a decisive way to contain corruption in a democratic society.

The DCEO devoted a lot of resources to educate the public on the negative effects of corruption on socio-economic and political development through public outreach that started immediately after its establishment. This involved weekly radio broadcasts, notice boards, TV broadcasts and anti-corruption campaigns through *lipitso*⁷ at community level across all the districts, and workshops organised for strategic groups such as parliamentarians and principal secretaries. The anti-corruption campaigns were also carried out at national expos and festivals such as agriculture and trade show and arts and cultural festivals. The DCEO also organised biannual national school debates on corruption and its debilitating effects, and distributed sensitisation and educational materials such as brochures, pamphlets, t-shirts, pens, rulers and drinking glasses during these debates.

The directorate carried out analyses of the operational systems and procedures of institutions with a view to identifying any opportunities for corrupt practices and then proposed practical measures for minimising the occurrence of corruption. After examining an institution, an internal self-monitoring SIC – discussed below – would be established to guide institutional reforms where appropriate and subsequently strengthen the systems. This was made possible by the strategic partnership it formed with other similar institutions that have a stake in the fight against corruption. This partnership was named DIAAL – after the initial letters of the organisations participating – and consists of the DCEO, Internal Audit, Accountant General's Office, Auditor General's Office and LMPS.

To consolidate its efforts in the fight against corruption and improve the effectiveness of the DCEO, the government passed an amendment to the Prevention of Corruption

and Economic Offences Act in 2006. This broadened the scope of the investigative powers of the DCEO to include private as well as public bodies. It also introduced a requirement for officials to disclose their assets and adhere to a code of good conduct and ethics regarding the acceptance of gifts. An asset disclosure was, however, not properly handled by the previous ABC-led political administration to the extent that some public officials refused to disclose their assets in fear of lack of protection. Discussions with several high-level officials revealed that the asset disclosure procedures and processes that had to be followed were opaque, and that there was a lack of secrecy in the offices responsible for asset disclosure. This response is supported by the results from the Afrobarometer survey of 2013 in which 41 per cent of respondents said corruption was badly handled by the previous regime.

In 2005, the government enacted the Public Service Act and launched the Public Sector Improvement and Reform Programme. These reforms aimed to professionalise public administration, improve the capacity of the civil service and curb nepotism and cronyism. In the subsequent year, the government passed the Public Procurement Act and its accompanying regulations, which established thresholds for use of procurement methods, bid evaluation procedures and contract management. At the same time the Procurement Policy Division was created through this Act to guide procurement units through procurement processes and offer legal advice. The aim of these instruments was to combat corruption that had permeated the procurement process and to reduce corruption risk and the possibility of rent seeking by public officials by abolishing many 'procurement hurdles'.

In 2008, the government passed the Money Laundering and Proceeds of Crime Act (MLPCA) No. 4 to establish the Financial Intelligence Unit (FIU). The core mandate of the FIU is to fight money-laundering and terrorist-financing offences. The FIU receives financial information from accountable institutions, analyses such information and, where a laundering or terrorist financing offence is suspected to have taken place, discloses the information to law enforcement agencies for investigation and possible prosecution. In 2014, the FIU reported 569 fraud cases of money laundering and possible proceeds of a crime to the LMPS and forwarded 222 corruption-related cases to the DCEO (FIU 2014). These cases involved suspected tax evasion, fraud and money laundering. The amounts transacted in these unscrupulous transactions ranged from M180,000 to over M1 million.⁸ The FIU has collaborated with the DCEO, Lesotho Revenue Authority (LRA) and LMPS and entered into a memorandum of understanding with these institutions and other strategic partners to share information in the fight against corruption.

By October 2015, the FIU had produced a number of intelligence reports on suspected 'white collar' corruption and submitted these to law enforcement agencies. It had also produced a number of 'topologies' reports to raise awareness among relevant authorities of trends relating to money laundering and sensitise them to vulnerabilities in their systems that might lead to money laundering and terrorist financing, thereby undermining the integrity of the financial system. The FIU had also been raising public awareness of issues related to corruption, money laundering, tax evasion, fraud, drugs and human trafficking through radio programmes, other

media outlets and workshops organised for members of Cabinet, principal secretaries and other state officials, media, law enforcement agencies, accounting institutions, financial intermediaries, etc. However, the effectiveness of the FIU is stifled by lack of capacity in financial analysis.

In 2009, the government introduced an Integrated Financial Management Information System (IFMIS) to serve as the basis for more effective monitoring and control over government revenue and expenditure. Given that the system combines preparing and executing budgets, accounting, financial management and reporting, it was hoped it would offer real-time accounting, reduce reporting time and ensure that financial reports were produced in time for regular audits to take place. The government believed that the IFMIS would assist in combating corruption and other fraudulent activities. However, discussions with officials from the Ministry of Finance reveal that no conclusion can be drawn regarding the effectiveness of the IFMIS in fighting corruption.

In 2011, the country passed the National Electoral Act to establish guidelines for private financing of electoral campaigns. The Act requires that any campaign-related donations higher than M20,000 be disclosed to the Independent Electoral Commission (IEC) and deposited into a registered party account. This was meant to avoid party financing through corrupt means, including using state resources. The Act further required the IEC to disclose this information to the public up to 12 months following a general election. Although the Act provides for public funding for registered political parties, it does not regulate the use of such funds or provide for monitoring the appropriate use of such funds. This loophole has opened the window to corruption in the system. Discussions with IEC personnel revealed that none of the oversight institutions in the country had ever audited the use of such funds. During 2011, the country also passed the Public Management and Accountability Act to provide a foundation for better financial control and reporting and more pro-active monitoring and control over public enterprises. In 2014, it enacted treasury regulations to close loopholes identified in the Finance Regulations of 1973. These loopholes had opened up opportunities for corrupt practices.

However, tough laws are not sufficient and cannot act as deterrents to corruption unless they are enforced. The asset disclosure requirement demonstrates this point. The United Nations (cited by Sarre et al. 2005) has cautioned that many corrupt countries have very exemplary formal statutes, but these statutes have no real meaning because they are seldom enforced owing to either inadequate capacity of the anti-corruption agencies or the powerful positions of offenders.

The DCEO's anti-corruption sectoral structures

With its strategy in place, the DCEO has been able to facilitate the whole government approach to combating corruption. It mobilised different sectors of society against corruption and formed some sectoral structures: the District Anti-Corruption Committees (DACCs), Systems Integrity Committees (SICs), Business Action Against Corruption (BAAC) and Students Integrity Associations (SIAs). Various stakeholders

interviewed for the case study revealed that the DCEO enlisted and fostered public support in fighting corruption and economic offences from its inception. It prevented the impact of corruption and economic crime through system strengthening across government ministries, examined systems and procedures of government and public bodies to identify corrupt practices or those with the potential to lead to corruption, and provided impartial and independent advice to organisations and individuals (public and private) on preventing corruption/economic crime and reducing its likelihood.

The Systems Integrity Committees (SICs) were initiated by DIAAL in 2005 with the core tasks of facilitating the implementation of recommendations made by DIAAL and using the experience of the examined systems to monitor other functions of ministries. To date, SICs have been established in 11 ministries including Education, Home Affairs and Finance. They report to the chief accounting officer of the ministry and the principal secretary and they comprise heads of key departments from their respective ministries. The SICs employ a two-pronged approach: education and prevention to redress corruption issues in the public sector to ensure efficiency and effectiveness within key departments and analyse operational systems to identify possible flaws in the systems that may create opportunities for corrupt activities. This also involves training public officials on codes of conduct, sensitising them on corruption issues and promoting good service delivery by the departments. The DCEO has encouraged private companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. To date, most companies have effective internal controls, ethics and programmes to detect and prevent bribery.

Other DCEO initiatives established in 2008 that contributed to reducing corruption included DACCs, BAAC and SIAs. These structures were established to mobilise different sectors of society in the fight against corruption. Their composition is broad based and includes ordinary members of the community, representatives of district-level departments of government and of the business community, civil society, religious groups and community councils, and law enforcement agencies through the office of crime and intelligence unit of the police. DACCs were first established in four districts and subsequently rolled out in three more. The major achievement of these structures has been whistleblowing on suspected cases of corruption at the district level. Discussions with the DCEO revealed that these structures have apprehended even their own district administrators to account for alleged corruption incidences.

The BAAC Lesotho Chapter was launched in March 2012. Although this was a Commonwealth initiative that has already been introduced in other many African countries such as Botswana and Malawi, it was restructured in line with local settings and received high buy-in from all sectors of society. To date, the DCEO has been able to set up BAAC structures in all 10 districts, with a national co-ordinating committee operating from Maseru. The BAAC is composed of the key business organisations such as the Private Sector Foundation of Lesotho, Business Council of Lesotho,

Lesotho Chamber of Commerce and Industry, Ministry of Finance, LRA and law enforcement agencies.

The specific mandate of these committees is to fight corruption within the business sector. Through the BAAC initiative, the business community can jointly address with the government and civil society matters of mutual concern that have a bearing on corruption. For example, discussions on issues of transparency in the government procurement processes often come up in these meetings. Task teams were developed and assigned to develop terms of reference for BAAC, business codes of good practice, an integrity ratings framework and a medium-term strategic plan. The significance of this initiative is that it has put the fight against corruption into the hands of the business community, which is the supply side of bribes and kickbacks in many instances.

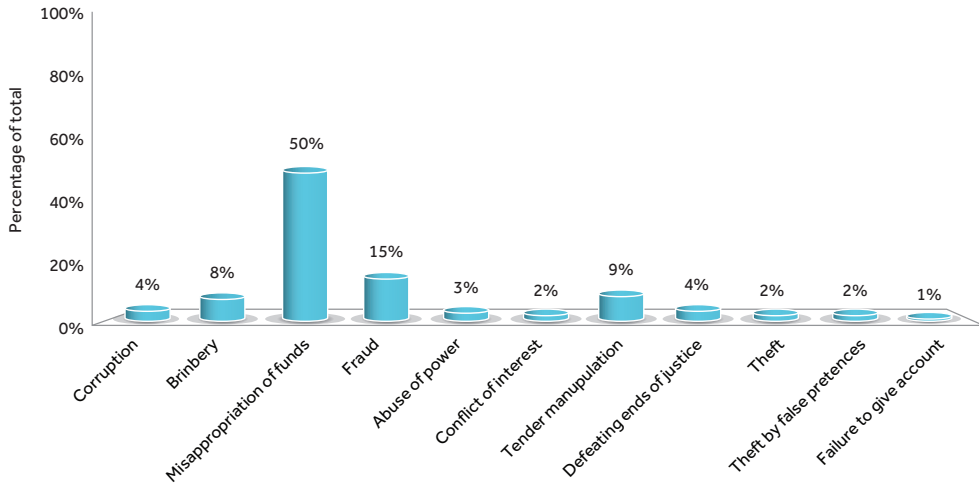
Later in 2012, DCEO launched the SIAs in seven schools in Maseru. The aim of the SIAs was to promote anti-corruption values and principles among learners in all educational institutions (primary and secondary schools, tertiary institutions and universities). The SIAs comprise two committees: a teachers' committee and a students' committee. These work closely together while they engage in educating the public through awareness campaigns through drama, poetry, songs, debate and community-based anti-corruption projects. Discussions with the DCEO pointed out that their long-term plan is to have the programme rolled out to all the schools in Lesotho.

Performance of the DCEO's anti-corruption strategies

Although the analysis in the foregoing section demonstrates the DCEO's ability to take a whole-government approach in the fight against corruption, the central issue is to what extent this approach has worked in Lesotho.

The literature on corruption identifies four conditions that are generally accepted as necessary for an anti-corruption agency to operate effectively and efficiently: they must be operationally, politically and financially independent, possess powers to instigate investigations, have political support and operate where political leadership is perceived as honest and exemplary (Langseth et al. 1997). The DCEO has been leading the fight against corruption and made noticeable progress with tangible results without much capacity in terms of personnel and financial resources. It received about 1,718 suspected corruption reports from July 2004 to July 2013. Figure 4.1 establishes that 50 per cent of the alleged cases attended during this period were related to misappropriation of public funds or embezzlement, while 15 per cent were about fraud, 9 per cent involved tender manipulation and 8 per cent were for bribery. The figure provides evidence that reported corruption practices are concentrated in the public sector. One important message can be drawn from the figure: that the DCEO strategy of public education and corruption awareness campaigns has been successful given the rate of public reports of suspected corruption incidences. The success of this strategy is affirmed by the Afrobarometer survey results of 2014 in which 6 in 10 (about 60 per cent) respondents say that ordinary Basotho can make

Figure 4.1 Classification of alleged corruption offences reported to DCEO, July 2004–July 2013



a difference in the fight against corruption and that reporting corruption is the most effective way that an ordinary person can combat corruption.

Despite public criticisms that the DCEO has been a watch dog with no ‘teeth to bite’ (APRM 2011), evidence from a number of sources proves otherwise. For instance, in 2013, the DCEO indicted both a sitting minister and a former minister for separate incidents of corruption (their cases are pending in court). The sitting minister was indicted on two counts of fraud and bribery totalling more than M43 million (Ntaote 2013). The charges relate to the controversial block farming scheme, aimed at boosting agricultural production in the country, and to a wool and mohair development project. The indictment stated that the former minister – who was the Minister of Natural Resources at the time the offence was allegedly committed – abused his office to facilitate the issuance of mining licences, thereby contravening section 21 of the Prevention of Corruption and Economic Offences Act of 1999 as amended (*Lesotho Times* 2013c).⁹

During the same year, the directorate requested the deputy prime minister (DPM) to provide information relating to monies deposited in his account between April 2013 and January 2014 as per Section 9 (c) (sic) of the Prevention of Corruption and Economic Offences (Amendment) Act No. 8 of 2006. This information was requested after the directorate received information from whistleblowers to the effect that a company named Big Bravo Construction (Pty) Ltd was undeservingly and illegally awarded a tender to construct roads in some villages in Maseru. It was further alleged that the DPM, who at the time was serving as the Minister of Local Government and Chieftainship Affairs, received bribes from the company in order to award it the tender. Based on these allegations, the directorate had commenced a discreet investigation. The DPM filed a constitutional case in which he accused the DCEO of infringing his right to privacy as guaranteed by the Constitution. Although he

lost this case, he appealed to the High Court (Tefo 2015). This case was heard in the Court of Appeal on 19 October 2015 and the DPM lost again. The DPM's challenge as to whether or not the anti-corruption legislation was constitutional appears to have been an attempt to dismantle the oversight institutions by the same leaders who created them. Had the case been decided in his favour, it would probably have paralysed the efficacy in the prevention of corruption in the country.

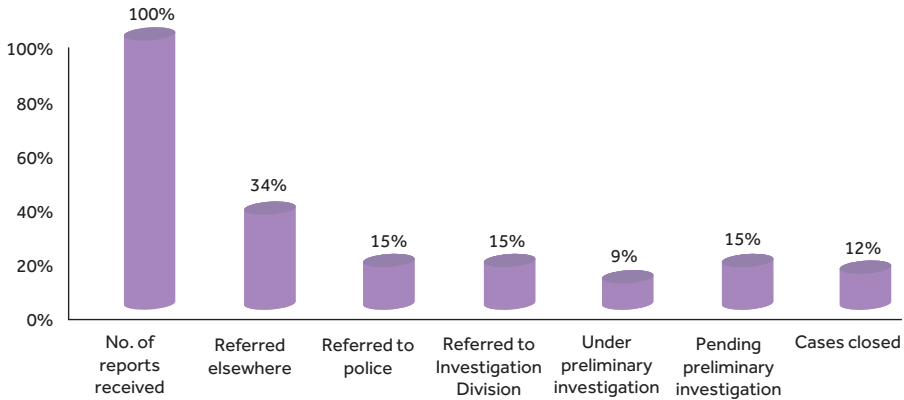
In 2010, the DCEO submitted 50 cases for prosecution and 10 led to convictions. These cases involved government departments, private companies and individual persons of all social standings, including high-profile ones. Among the convicted cases the following are worth noting:

- i. The conviction of the deputy commissioner of police, two assistant commissioners of police and an inspector who were charged with corruption, fraud, bribery, theft by false pretence and obstructing the course of justice. These officers were charged for conspiring to rig tenders for the supply of new police uniforms and for M125,000 in bribes.
- ii. The verdict against a former clerk of the National Assembly who was charged with inflating the price of a photocopier purchased by his ministry. The High Court sentenced him to 10 years' imprisonment with an option to pay a fine of M50,000. After he appealed against the sentence, the Court of Appeal confirmed his conviction and imposed a four-year prison sentence (*Lesotho Times* 2010b).
- iii. During the same year, the sentencing of a former military captain to six years for forging documents in a travel scandal (Lesotho Legal Information Institute 2007).
- iv. The conviction of the chief delegate of the Lesotho Highlands Water Project and his deputy for accepting bribes from a German engineering company, Lahmeyer International GmbH. He escaped to South Africa but his co-accused is currently serving his sentence at Maseru Central Prison (Public Eye 2015).

There are also a number of cases where the investigations have been completed and they are awaiting trial. These include a former principal secretary of public works accused of possible corruption and defrauding the government; a former principal secretary in the Ministry of Finance charged with allegedly defrauding the government of M19 million, alongside his former boss and a businessman; and a former principal secretary in the Ministry of Home Affairs charged with bribery alongside a 43-year-old South African man in the awarding of a contract for the production of national identity documents and passports.

In general, the DCEO has closed 12 per cent of all cases received since 2004 while 15 per cent are under investigation and 24 per cent are either at the preliminary stage of investigation or pending preliminary investigation (see Figure 4.2).

About 300 of those reports were allocated for investigations. The courts have reached a verdict in just over 20 cases, with 18 convictions secured.

Figure 4.2 Distribution of cases under DCEO (July 2004–July 2013)

4.2.2 Parallel reforms and their role in the anti-corruption drive

While the DCEO championed the country's anti-corruption strategy, there were several other auxiliary reforms pursued by different institutions that consistently bolstered the fight against corruption. These reforms were mostly targeted at improving efficiency in service delivery and reducing bureaucratic procedures and delays that often result in corruption opportunities. They were also aimed at increasing accountability, transparency and effectiveness in governance. They include the Financial Management reforms that started in 2005, which were focused on procurement and performance-based budgeting and introduced the Medium Term Expenditure Framework as a way of increasing accountability, transparency and effectiveness in government.

More recently the government embarked on a series of far-reaching World Bank-assisted reforms under the Private Sector Competitiveness and Economic Diversification Project (PSCEDP). These reforms included changes to business regulations, industrial licensing and construction permits. The main objective was to remove unnecessary regulatory burdens for the private sector, saving time and costs for registering a business and potentially increasing the numbers of compliant businesses and obtaining construction permits. The rules and procedures for establishing a business in Lesotho were lengthy, cumbersome and costly for the private sector and often opened opportunities for corruption. Although the reform was prolonged over time, its eventual success on completion was evidenced by the introduction of the new 2012 Companies Act, and the creation of the One-Stop Business Facilitation Centre (OBFC), which brought under one roof different government departments and agencies in charge of business start-up and operations. The reform resulted in a more simplified and streamlined company registration system, with a decrease in the number of days required to register a business, from 28 days to 7. This was reflected in an increase in Lesotho's Doing Business ranking by 65 positions in the starting a business indicator, also making it one of the top Doing Business reformers for 2013.

Inspired by the success of the company registration under the OBFC, the government has taken steps to modernise its industrial licensing regime. It recognises that the

current licensing system is cumbersome, unpredictable and non-transparent, involving multiple agencies and resulting in high compliance costs and corruption in the private sector. In order to tackle these shortcomings, the government was supported by the PSCEDP to draft the 2013 Industrial Licensing Bill, which replaced the outdated 1969 Industrial Licensing Act. In 2014, the government entered into the second PSCEDP.¹⁰ Although reforms under the second PSCEDP are still at their nascent stage, it is hoped that they will minimise corruption opportunities. At present the enforcement of construction permits creates opportunities for widespread discretion and corruption. The lessons from the past indicate that inefficient and corrupt construction permit and inspection systems mean lost opportunities for existing and would-be entrepreneurs.

4.2.3 The role of Parliament, the media and civil society

Parliament

Beyond its commonly understood core role of enacting laws to prevent and curb corruption, Parliament through its Public Accounts Committee (PAC)¹¹ played a significant role in curbing corruption through legislative scrutiny of public accounts and financial management practices. The PAC was established under the Public Accounts Committee Orders of 1972 but only began its oversight duties in 2002 after more than three decades of inactivity. To implement its functions, the PAC summons accounting officers from government ministries, departments and parastatals responsible for financial management and accountability matters to appear before it and provide explanations of any suspected mismanagement and irregularities in government finances. Following the process of interrogation, the committee makes recommendations for adoption by Parliament. The implementation of recommendations is monitored by the Treasury, which prepares a memorandum on the committee's recommendations.

During the period 2002–2014, the PAC concluded the review and conducted hearings on the audited public accounts for the financial years 1993/94–1996/97 and 2002/03–2009/10 and is yet to tabulate the report for 2011/12–2012/13 to Parliament. In a number of these reviews the PAC has repeatedly sensitised Parliament and the executive to the increasing levels of theft, fraud and embezzlement of public funds in the civil service. The impact of the committee is attested by the number of suspected corruption cases that it identified and forwarded to the DCEO and the Office of the Ombudsman for further investigation and prosecution. Two critical factors underline its successful operations: first, the chairman comes from an official opposition party in Parliament; and, second, the members cannot all come from the ruling party. These requirements ensure its transparency and independence.

The media

That the press is important for tackling corruption was observed long ago. David Hume in 1776 argued that a free press is important for keeping the behaviour of government in check, while disclosure of corruption was seen as the major function of the press (Eggelstone 1941). A number of recent studies have shown that better press coverage decreases corruption connected with national funds. For example, Reinikka and Jakob (2005) found that press freedom reduced corruption in government

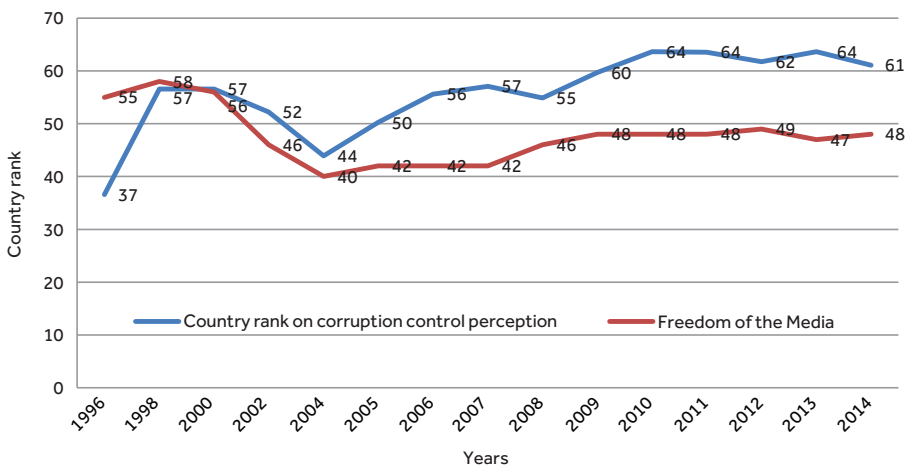
education funds in Uganda. In the context of Lesotho, since the reinstatement of the Constitution – which guarantees political rights and civil liberties, including press freedom – the media has been relatively free to report on corruption scandals. Figure 4.3 shows that in 1996 Lesotho performed relatively badly in terms of the Corruption Perception Index (ranked position 37 out of 100), and during this year the media was relatively repressed (score of 58 where higher scores represent worse performance). Since then, as the freedom of the media improved, corrupted perceptions scores improved too. Interviews supported the notion that the media has played a very important role in the fight against corruption, in particular through taking part in exposing corruption scandals.

The media has served as both a deterrent mechanism to potential perpetrators and a whistleblower regarding corrupt practices. The campaigns to raise awareness and educate the public on corruption issues have also been done through the media. During the period under discussion, there was increased media coverage, including stories exposing enormous corruption even at the higher echelons of power. This prompted some of the private firms to buy advertorials in an attempt to counter poor coverage, presenting emerging media houses with an opportunity to publicise the stories that the mainstream media was ignoring. The Afrobarometer survey shows that the media in Lesotho is appreciated in the fight against corruption: about 59 per cent of respondents said it was ‘very effective’ or ‘somewhat effective’ at revealing government mistakes and corruption (Afrobarometer 2013). The use of social networks as a forum for widespread discussion of national issues also ballooned in the period under review.

Civil society

Although Lesotho civil society is not highly vibrant like that of other countries such as Ghana, Kenya and South Africa, it has been actively involved in the fight against social injustice and has contributed substantially to the fight against corruption through civic participation and public sector monitoring. Discussions with representatives of

Figure 4.3 Trends in corruption control perception index and freedom of the media, Lesotho (country rank, 1996–2014)



civil society groups revealed that they have been involved in DCEO anti-corruption events on an ad hoc basis. Some members of civil society have also been appointed to serve in the District Anti-Corruption Committees (DACCs). A meeting with the Transformation Resource Centre (TRC) – an organisation that deals with issues of citizen participation and accountability – revealed that the TRC has been playing a pivotal role in holding different actors (i.e. government ministries, mines and the business community) accountable.

4.2.4 The impact of anti-corruption strategies

This section presents evidence from three public services centres – Home Affairs, Police Traffic and Revenue Collection – of the impact made by key institutions involved in the fight against corruption.

The Ministry of Home Affairs

By replacing its entire manual travel documents issuance system, which was a source of inefficiency and subsequent corruption (i.e. in the form of bribes), with an electronic system that uses biometrics, the Ministry of Home Affairs successfully reduced the impact of corruption that had flooded it over decades.

Previously, bribes had to be paid, for example, to get a passport, to register birth and death or to obtain a driving licence. Given the importance of passports in facilitating access to other services – and the fact that a sizable number of Basotho regularly cross the border into South Africa for various purposes such as seeking jobs, business, medical reasons, schooling and visiting relatives – passport backlogs due to inefficiencies and dysfunctional manual systems led to increasing levels of corruption as people ran out of patience.

In response to a public outcry, the DCEO advised the then Minister of Home Affairs to undertake an international audit to diagnose the problem. This found that it generally took three to four years to obtain a passport but that ‘emergency applications’ gave preferential treatment to the elites with political connections. Increased applications for ‘emergency passports’ led to a disturbance in the normal flow of production as these put money into officers’ pockets (Auditor General 2011). In some instances, immigration officers would refuse to release even the already produced passports until applicants paid a bribe. Temporary travel documents began to be produced, but these were so easily faked that the South African Government refused to accept them (Scott and Weisfelder 2013). South Africa also banned the use of six-month visas issued to Basotho owing to the loss of credibility of the passports, which by then had been found in the possession of foreign nationals who had acquired them fraudulently.¹²

The process of replacing the manual passport system with an automated system that uses biometrics began in 2010. The ministry also introduced a vital registry system and streamlined its processes and procedures. By 2014, the long queues at passport offices were no more. Passports are now usually released within two to three working days or sometimes within the day, showing that the new system is efficient and well organised. However, challenges remain, including political interference that has

changed the documents required for the issuance of a passport and the continued demands from certain politicians that passport and identity issuance officers give priority and favours to their political clients.

The traffic police

In 2005, before the Traffic Department of the Lesotho Mounted Police Services (LMPS) was reformed, corruption was at the core of the police system. The traffic police in particular were known for extorting bribes. Admittedly salaries were very low, and the police suffered severe resource constraints that contributed to their loss of morality and professionalism. To clean up corruption in the traffic police, ambitious measures were needed.

In 2005, the government launched a series of sweeping reforms that included training of officers; efficient deployment of resources and people; a new performance management system; community policing policies; and government policing oversight agencies (i.e. the Police Complaint Authority, the Police Directorate and the Office of the Inspector of Police) to monitor the activities of the police and ensure that they adhere to common norms. The Commissioner of Police undertook a campaign against corruption within the force, targeting traffic enforcement in particular. To increase monitoring and detect corruption, undercover agents were used to trap other officers suspected of corruption. Another strategy was lobbying the government to increase the salaries of the police in order to incentivise them not to engage in corruption.

The 2005 Zero Tolerance to Crime and Corruption also mobilised community engagement in the fight against corruption and crime, and media campaigns were aimed at changing people's attitudes towards the traffic police. All these strategies resulted in the firing of more than 16 rogue police officers for engaging in corrupt activities (Kabi 2012) and a reduction in road traffic bribes.

The Lesotho Revenue Authority

Before 2003, corruption in tax administration was common and decimated revenue collection. The then revenue collection agency, the Sales Tax and Customs' Revenue Department, remitted very little revenue collected domestically, as many corrupt officials had been enriching themselves for years (Scott and Weisfelder 2013). In 2001, the government introduced several tax reforms and enacted the Lesotho Revenue Authority Act to establish the Lesotho Revenue Authority (LRA), which became operational in 2003. The Act empowered the LRA to take measures to counteract tax fraud and other fiscal evasion.

Although fighting corruption is not the core mandate of the LRA, from the outset it has engaged aggressively in the fight against tax evasion, smuggling, bribery and fraud in revenue collection. It established an Internal Affairs Unit to deal with investigations into suspected corruption and fraud among its staff. During its first year of operations, the unit cracked down on potential internal tax fraud and saved the country millions of maloti (LRA 2004). During the same year, the authority

introduced a toll-free line for the public to report suspected cases of tax evasion, smuggling, under declaration and any other form of corruption.

In 2005, a tax amnesty was declared under the Tax Amnesty Act No. 9 of 2004 to allow taxpayers to start on a clean slate and break the past culture of non-compliance and tax evasion. The authority solicited support from the LMPS and DCEO that involved the attachment of police officers at LRA offices, and the arrest of some officers suspected of corruption became a deterrent. As a result of co-operation between these institutions, a number of tax evasion cases were successfully investigated and litigated.

In 2005, the Anti-Smuggling Unit was established to deal with fraud and smuggling at the customs and excise department. In addition, LRA established other complementary approaches to enhance its effectiveness and root out corrupt practices. These included provision of taxpayer education through tax clinics and radio broadcasting (i.e. 'Mokhafisi' Radio Programme); one-to-one meetings with taxpayers; strengthening audit and assessment capacity; improvements in imports and exports procedures; computerisation of tax payers' identification numbers; introduction of computerised financial and human resource management information system; simplification of revenue laws and introduction of performance development management system; and the establishment of an ethics unit with the responsibility of training all LRA staff on issues of ethics in tax.

The authority has been running anti-corruption awareness and integrity campaigns with the DCEO for its staff and the public through a series of workshops and media outlets across the country. In addition, it crafted the Whistle Blowing Policy, which has been a milestone achievement given that the country does not have a law to protect whistleblowers.

These strategies drastically reduced corruption in revenue collection. In 2012–2013, the LRA prosecuted about 64 cases of bribery, tax evasion and fraud. Consequently, its domestic revenue remittances to government increased by more than 191 per cent, from M1.37 million realised in 2003–2004 to almost M4 million in 2012–2013, and total tax remittances have increased by about 238 per cent over a 10-year period (see Table 4.1). As tax revenues increased, salaries increased. Staff incentives were changed by the introduction of performance evaluations based on the ability to collect taxes. Monitoring was also improved and target levels of tax collection were set and monitored.

4.3 Conclusion: lessons, challenges and recommendations

Lesotho has made progress in creating institutions necessary for good governance in general and political accountability. As far back as the late 1990s, the country built an anti-corruption institution possessing real influence and sustained by the lack of political interference in corruption cases. Lately, the country has promoted a broad-based coalition of institutions, businesses and civil society to combat corruption. These anti-corruption forces have delivered the hope that victory in the fight against corruption is possible. It is clear from the experience of Lesotho that economic and political reforms and competition are insufficient to prevent and reduce corruption significantly. What helps are more effective organs of oversight and accountability,

Table 4.1 Tax revenue remittances to the government for 2003–2004 to 2012–2013 (M million)

Year	Customs and excise revenue	Domestic tax revenue	% change in domestic tax	Total tax revenue	% change in total tax revenue	Prosecuted corruption cases
2003–04	1,421.7	1,372.0	–	2,793.7	–	–
2004–05	2,012.5	1,598.4	17	3,610.9	29	3
2005–06	2,306.2	1,580.2	–1	3,886.5	8	31
2007–08	3,822.3	1,687.7	7	4,468.9	15	–
2008–09	4,901.1	2,069.3	23	5,891.6	32	23
2009–10	2,911.9	2,530.4	22	7,431.5	26	58
2010–11	3,571.6	2,815.3	11	5,727.2	–23	41
2011–12	4,103.0	3,276.8	16	6,848.3	20	56
2012–13	5,438.0	3,995.4	22	9,433.4	38	64

Note: Domestic tax revenue comprises both income tax and value added tax.

Source: LRA Annual Reports (2003–2014); author with information from LRA.

reinforced by independent and free media and effective civil society groups. In the public sphere, the most important anti-corruption forces are sound ethics and a strong sense of public responsibility. But ethical values are often outweighed by other factors: poverty, political pressure, increasing social inequalities and political competition that may induce officials to do wrong. Lesotho's experience provides a further lesson that, even where traditions of corruption are deeply entrenched, efficiency of systems in service delivery driven by political will and societal ethical transformation can change people's incentive to engage in corrupt activities. However, several challenges as articulated above remain, which could reverse the gains made so far.

4.3.1 Lessons

The key salient factor leading to success in fighting corruption always starts with political will at the level of policy-makers. The fact that Lesotho's political administrations were able to enact appropriate laws, establish institutions and allowed these institutions to perform their duties as mandated by law even when odds were not in their favour is quite critical. During the period under review, the DCEO worked closely with other agencies and oversight institutions – the police, the Lesotho Tax Revenue Authority and Audit Office, to name a few – to share information and fight maladministration, which is a potential corruption avenue. The Directorate also worked well with all other sectors of society, a typical example being the successful holding of the National Dialogue on Corruption in 2013, in which about 250 stakeholders drawn from all sectors of society participated. This national dialogue on corruption resulted in the development of the National Anti-Corruption Strategy and Action Plan 2014/15–2018/19. Another factor underlying this success has been the absence of political interference in the corruption cases even when such cases involved members of the ruling coalition. This gave the DCEO confidence and strengthened the fight against corruption.

The success of the anti-corruption reforms and the gains made so far also hinged largely on Lesotho's independent judiciary, which remained to a larger extent resilient in the face of political challenges and was able to adhere to separation of powers as prescribed in the Constitution. In addition, the country's commitment to a number of international organisations and bodies that fight against corruption has also played a role. These international bodies have supported the country both technically and financially in its efforts to root out corruption. In 2005, the country acceded to the United Nations Convention Against Corruption (UNCAC) through adoption of Article 68 (1) of Resolution 58/4. In 2012/13, the DCEO received technical assistance from the Commonwealth Office to help fine-tune its anti-corruption strategy, and there has been continued support from the Commonwealth through annual discussion forums where anti-corruption bodies meet and share their experiences and challenges.

Immense support also came from a number of continental and regional anti-corruption instruments that the country ratified under the African Union (AU) Convention on Preventing and Combating Corruption and Southern African Development Community (SADC) Protocol against Corruption, which the country ratified in 2003 and 2001 respectively. At the regional level, the country became a member of the Southern African Forum Against Corruption in 2002, and even chaired the forum from October 2012 to November 2013. Moreover, the country's membership of the African Peer Review Mechanism (APRM) and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a Financial Action Task Force-style regional body involved in the fight against corruption, provided further support in the fight against corruption.

4.3.2 Challenges

Despite these positive developments and achievements, there are several challenges that merit attention in the fight against corruption in Lesotho. These include:

- The lack of qualified personnel and financial resources devolved to the DCEO to carry out its mandate effectively.
- Inefficiencies in the delivery of justice with some cases going on for two or three years before a verdict, which reduces the morale of actors and institutions that have taken a lead in the fight against corruption.
- Weak accountability systems across certain institutions and underfunded oversight bodies.
- Lack of skills such as forensic audit, investigative journalism and financial crime investigation.
- Uncompetitive remuneration offered by the DCEO, DPP, LMPS and FIU, which has invariably led to loss of experienced personnel to the private sector.
- The absence of a rectified Access to Information Bill.
- Lack of extradition treaties with some major trading partners, which became evident in the case of *Sole v. LHDA* and makes it difficult for law enforcement agencies when corruption offences are committed locally and perpetrators relocate to their countries of origin.

- A mismatch in the legal framework between financial penalties and imprisonment terms imposed on perpetrators. Most punitive financial measures tend to be outdated and do not correspond to imprisonment terms and thus would possibly not act to deter would-be wrongdoers.

Added to this, public policing duties are reactive and thus do not stress prevention, which is a more effective method of fighting corruption. Civil society faces a challenge of a lack of resources and expertise in their anti-corruption fight. Over the past years they have experienced high staff turnover due to their diminished resources. The lack of resources has limited their operations in Maseru and they rarely have the capacity to expand into the interior parts of the country.

In addition, the increasing socio-economic problems (i.e. inequalities, unemployment levels estimated at more than 25 per cent of the labour force and more than half of the population living below the poverty line) might reverse the gains made so far in the corruption fight. Last, the country remains largely a cash economy and this makes controlling corruption more challenging.

4.3.3 Recommendations

In light of the foregoing challenges, and in recognition that there is no single solution in fighting corruption, the study recommends the following:

1. Identify successful champions within institutions in the country and use their best practices to assist the ailing ministries and other public or private service centres. The identified champions need to be provided with incentives for good performance to encourage continued improvement by institutions. This should be done at an annual anti-corruption champions' day and be widely publicised.
2. Enact whistleblowers legislation and its corresponding regulations to protect whistleblowers and enhance their willingness to continue exposing suspected corruption. Such legislation should contain strict penalties against anyone who victimises or retaliates against those that disclose suspected corruption. The LRA has a policy on whistleblowing and this should serve as a starting point. At the same time, the long-standing Information Bill needs to be passed into law urgently.
3. Eliminate political appointees in public positions. In the light of the common practice by which public servants are appointed based on their political affiliations, there is a need to urgently review the recruitment process of the public service and adhere to the public service commission's regulations. The commission needs to be technically empowered and respected by all political administrations lest they undermine its independence and autonomy. The screening processes for public servants should be strengthened and made more transparent.
4. Enact a law on a code of ethics across all institutions (both public and private) in the country and sensitise all leaders at different levels of leadership about this code. It should be mandatory for companies, parastatals and public bodies to adopt the code of ethics.

5. Institutionalise the declaration of assets by both private and public servants, review the regulations governing declaration of assets and interest and sensitise and obtain the buy-in of all relevant stakeholders. Before the enforcement of the law governing the declaration of assets, adopt best practices from peer countries on how to protect the assets of those that have declared them.
6. Review the law to make the DCEO and other oversight bodies financially and technically independent. At present, the DCEO is underfunded and this has stripped it off its financial independence and curtailed its operational independence. The government needs to devise a financing model for the DCEO and other oversight bodies, which does not depend on a discretionary government subvention. Perhaps a rule-based model similar to that of central bank financing would work better for these important bodies. Enhancing the financial independence of the DCEO will also allow it to train its staff in technical areas where it lacks expertise.
7. Strengthen leadership commitment to the fight against corruption. Leaders at all levels need to regularly make strong public statements against corruption and should publicly declare their assets and interests in order to build trust and pave the way for the rest of the society. They should continue to allow the DCEO to be independent politically and support it financially and technically.

Annex 4.1 Anti-corruption legal and institutional framework

Legal and institutional anti-corruption framework	Main institutions involved in the fight against corruption
1. Constitution of Lesotho of 1993	1. Directorate of Corruption and Economic Offences
2. Criminal Procedure and Evidence Act of 1981	2. Lesotho Revenue Authority
3. Penal Code No.6 of 2010	3. The Office of the Ombudsman
4. Prevention of Corruption and Economic Offences Act of 1999	4. Business Action Against Corruption (BAAC)
5. Prevention of Corruption and Economic Offences (Amendment) Act of 2006	5. Parliamentary Public Accounts Committee
6. Public Procurement Regulations of 2007	6. Office of the Auditor General
7. Money Laundering and Proceeds of Crime Act No.4 of 2008	7. Crime and Investigation Unit of the Lesotho Mounted Police
8. Public Finance Management Act of 2011	8. District Anti-Corruption Committees (DACCs)
9. Lesotho Revenue Authority Act of 2001	9. Students Integrity Associations (SIAs)
10. Treasury Regulations of 2014	10. Financial Intelligence Unit (FIU)
11. Income Tax Act No. 10 of 1993	11. Transformation Resource Centre
12. Public Service Act of 2005	12. DIAAL institutions
13. National Electoral Act of 2011	13. Lesotho Council of NGOs
14. Lesotho Parliamentary Standing Orders	14. Media Houses
	15. Directorate of Public Prosecution (DPP)

Annex 4.2 List of main stakeholders consulted

Name of representative(s)	Name of organisation(s)	Position in organisation
1. Motlamelle Kapa	National University of Lesotho	Senior Lecturer
2. Seboka T. Thamae	Business Action Against Corruption	Member
3. Thabang Matjama	MISA – Lesotho	Reporter
4. Leshele Thoahlane	Office of the Ombudsman	Director General
5. Hon. Moeketsi Vincent Malebo	Ministry of Justice	Minister of Justice and Former Chair of PAC
6. Monica Besetsa	Office of the Auditor General	Deputy Auditor General
7. Litelu Ramokhoro	Directorate of Corruption and Economic Offences	Director of Public Education and Corruption Prevention
8. Holomo Molibeli	Crime and Investigation Unit, LMPS	Deputy Commissioner
9. Khoeli M.	Crime and Investigation Unit, LMPS	Senior Inspector
10. Lebona Mohloboli	Crime and Investigation Unit, LMPS	Senior Inspector
11. Molefe Clifford	Crime and Investigation Unit, LMPS	Senior Inspector
12. Mphaka L.R.	Office of Accountant General	Accountant General
13. Rant'si Tlatlai	Standard Bank of Lesotho	Head of Financial Crime Control Unit
14. Kopo Moneuoa	Lesotho Revenue Authority	Senior Manager – Internal Affairs Assurance Services
15. Palesa Khabele	Financial Intelligence Unit	Director
16. Lenka T.	Transformation Resource Centre	Programme Manager
17. Reporter	<i>Public Eye</i> Newspaper	Reporter
18. Reporter	<i>Lesotho Times</i> Newspaper	Reporter
19. Ambassador Matthew T. Harrington	American Embassy	Ambassador to Lesotho
20. Thabo Mosoeunyane	UNDP	Governance Specialist
21. Daniel Rafube	Christian Council of Lesotho	–
22. Morero Sehlabane	DACC	Member
23. Thabo Qhesi	Private Sector Foundation	Director
24. Ntsebeng Motsoeli	<i>Lesotho Times</i> Newspaper	Reporter
25. Mphasa Mokhochane	Independent Electoral Commission	Deputy Director
26. Fako Likoti	Office of the Prime Minister	Government Political Adviser
27. Mosito Kananelo	Court of Appeal	President of Court of Appeal
28. Leaba L. Thetsane	Directorate of Public Prosecution	Public Prosecutor

(Continued)

Name of representative(s)	Name of organisation(s)	Position in organisation
29. Tumelo Raboletse	Ministry of Home Affairs	Director of Civil Registry and Identity Documents
30. M. Rafono	Ministry of Home Affairs	Director of Immigration
31. Mapalesa Rapapa	Ministry of Finance	Principal Secretary
32. Samonyane Ntsekele	ABC/Kobo-Tata	Secretary General
33. Hon. Mokhele Moletsane	Ministry of Public Works and Transport	Deputy Minister
34. Lindiwe Sephomolo	Association of Lesotho Employees	–
35. Mapetla M.	National University of Lesotho	Senior Lecturer
36. Makoa Kopano	National University of Lesotho	Retired Professor

Notes

- 1 Peete (1999) noted that corrupt practices were present long before the 23 years of the autocratic rule and before the political transition in 1993, and that corruption was engraved in the Basotho culture in the form of gifts and tokens that were traditionally exchanged for certain favours. The recipients of such bribes were tribal chiefs who demanded them for the allocation of plots of lands to their subjects. Yet in contemporary Basotho society such bribes are no longer limited to chiefs but extend to all those entrusted with power but who abuse it for their personal gains.
- 2 See various Auditor General's Reports from 1980 to 1993.
- 3 The DCEO was established through the Prevention of Corruption and Economic Offences Act No.5 of 1999.
- 4 However, De Lancer and Villaria (2014) and Graycar and Prenzler (2013) argue that perceptions about corruption do not translate into incidence and do not help in understanding its prevalence in a society. Accordingly, such surveys must be accompanied by solid criminological data, evidence, reports or complaints in order to determine the true nature and extent of corruption in a society.
- 5 An interview with a group of textile workers indicated that corruption in the form of bribery to secure jobs in the textile industry has become commonplace.
- 6 The former Prime Minister argued that the appointment of political party affiliates expressed the composition of the government triumvirate of the ABC, the Lesotho Congress for Democracy (LCD) and the Basotho National Party (BNP) (Koloi 2014).
- 7 Public assemblies.
- 8 In May 2018, US\$ 1 = M12.55.
- 9 The minister was indicted alongside four businessmen who are all directors of the Mafeteng-based firm Refela Holdings. The businessmen allegedly failed to comply with the said legislation between 1 and 29 May 2012 when acquiring licences to prospect for diamonds in Ha Ramatšeliselo and Mosaqane in the Qacha's Nek district.
- 10 The second PSCEDP is aimed at supporting the streamlining of the construction permit system in the Maseru City Council by automating the document workflow, digitising back-office functions and digitising the archive where possible to create automated, predictable and transparent systems to reduce the time, cost and regulatory burden for the private sector and the transaction costs for the council.
- 11 The PAC is composed of 25 MPs (from the ruling party, official opposition and crossbenchers). It invites the DCEO, LMPS, NSS, Auditor General and Accountant General to sit in on the cross-examination.
- 12 Lesotho passports were reportedly sold in South Africa for between R10,000 and R15,000 (Molomo 2010). In one case decided by the High Court of Lesotho, Nigerian men were found guilty of illegally possessing Lesotho passports.

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