

ACC Annual Report 2008 - 2009

ANTI-CORRUPTION COMMISSION

Management Team



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Director



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Message From The Director



I am pleased to once again through an Annual Report account to the Namibian people about the activities of the Anti-Corruption Commission (ACC). The Annual Report marks the end of another water shedding and challenging year for the ACC. Though so, considerable progress has been made in setting up the necessary infrastructure for the ACC. I am delighted to be able to report that all the units of the ACC are now fully operational.

Our achievements for this year by far exceeded that of previous years. We remained focused and guided by our legal framework, the Anti-Corruption Act, 2003 (Act No. 8 of 2003), which gives the mandate to the ACC to, amongst others:

- investigate allegations of corruption;
- educate the public on the evil and dangers of corruption;
- take preventative measures to curb corruption.

The ACC is also in its operations inspired by the long-term National Development Framework (Vision 2030) and the Third National Development Plan (NDP3). Corruption destroys national integrity and results in the wastage of national resources. The ACC therefore strives to ensure overall good governance in institutions that will promote democracy and economic sustainability in Namibia.

However, for Namibia to successfully curb corruption, there is a need to promote positive values to change the ethos and create abhorrence against corruption. Therefore in order to promote ethical values in our society, the ACC through its Public Education and Corruption Prevention Directorate visited a number of primary and secondary schools to raise awareness among teachers and students about the dangers and evils of corruption. In addition, the ACC conducted seminars and workshops at various other public institutions. This was done with the aim to enhance awareness on corruption and as a preventative measure. Corruption with its devastating effect on national economies should be prevented or curbed at all cost. We should avoid having a situation where money intended for the development of public facilities end up in the hands of a few greedy individuals.

The ACC has in various instances in accordance with the Anti-Corruption Act referred cases to the Prosecutor-General with the recommendation that criminal prosecution be instituted. The decision to prosecute vests in the Prosecutor-General in terms of the Namibian Constitution. In quite a substantial number of cases, the Prosecutor-General has taken a decision to have suspects arraigned on charges of corruption. However, the Judiciary faces its own challenges. Despite the decision to prosecute in certain cases these cases have been pending for quite some time before our courts. The courts are struggling to cope with the large number of criminal cases. At the same time the nation is anxious to see justice being done as speedily as possible. The current state of affairs calls for the authorities to address the problem of the shortage of manpower in the Judiciary. The absence of plea bargaining powers in the Criminal Justice System also needs to be addressed as this will go a long way towards ensuring a speedy handling of criminal cases. There also appears to be a growing need for the establishment of special courts to deal with corruption and other serious economic crimes. It is after all in the interest of good governance to deal as expeditiously as possible with these types of crimes.

Since corruption has many dimensions the anti-corruption drive cannot be left to a single institution, but it requires a concerted effort from all stakeholders, in particular the Government, the Business Sector, Civil Society and the Media.

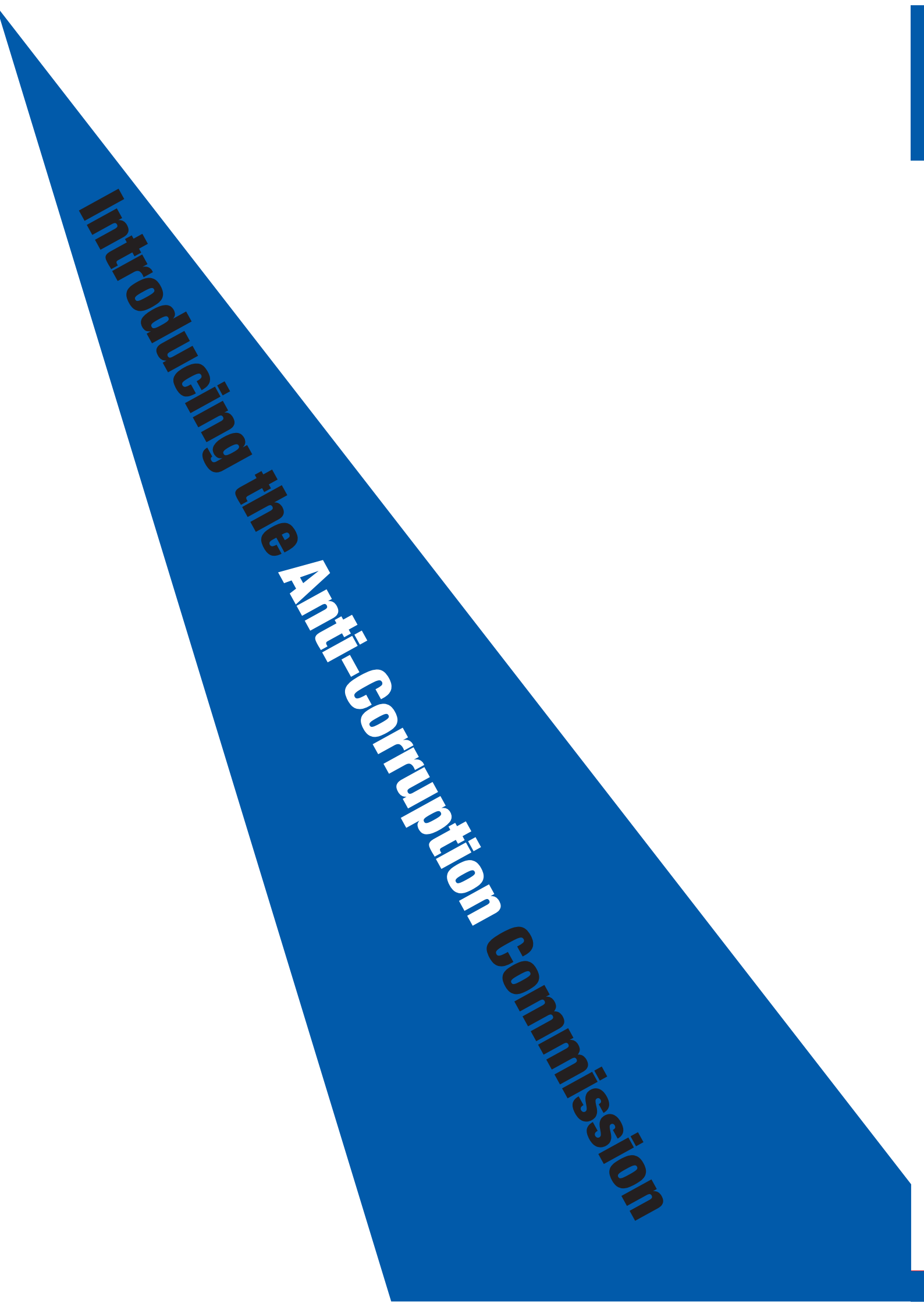
The ACC continues to make headway. From time to time we team up with stakeholders and partners that have a corrupt-free society at heart. We believe that the battle against corruption has to be fought by all and it requires a coordinated attack. In this regard the Commission is happy to note that a partner institution, the Financial Intelligence Centre, will officially commence its activities during May 2009. The cooperation that will ensue between the different law enforcement agencies will go a long way towards ensuring the exchange of intelligence and the implementation of preventative measures timeously to prevent financial losses.

At regional and international level we continue to cooperate and exchange information on best practices to prevent and combat corruption. Corruption is a transnational crime that can only be successfully vanquished through cooperation, coordination and assistance. Central to this all is the Government's continued financial support that will allow the ACC to carry out its mandate.

I am confident that we can win the war against corruption. All that is needed is that we as a nation remain committed and dedicated in the fight against corruption.



Paulus Kalomho Noa
Director: Anti-Corruption Commission



Introducing the Anti-Corruption Commission

Background

Introduction

Namibia's anti-corruption legislation dates back prior to its independence in 1990. The Prevention of Corruption Ordinance, 1928 (Ordinance No. 2 of 1928), was enacted and came into force on 12 June 1928. The Prevention of Corruption Ordinance, 1928, was enforced by the Police. In addition, the Namibian Parliament passed the Ombudsman Act, 1990 (Act No. 7 of 1990), that established the Ombudsman and empowered the Ombudsman to, amongst others, investigate corruption.

However, there were periodic incidences of corruption and maladministration and the fear was that these could become more frequent. Namibia as a young nation engaged in the complex process of nation-building could ill afford this. The Government therefore opted to take further initiatives in favour of good governance, greater accountability, transparency and cooperation in combating corruption. One such initiative was the establishment during 1997 of an Ad Hoc Committee on the Promotion of Ethics under the Chairmanship of the then Right Honourable Prime Minister, Hage Geingob, which had terms of reference set by the Cabinet. Initiatives such as these eventually led to the passing of the Anti-Corruption Act, 2003 (Act No. 8 of 2003), that established the Anti-Corruption Commission to head the fight against corruption through law enforcement, prevention and public education.

This Annual Report is an account of the anti-corruption programmes and activities undertaken by the Commission during the 2008/2009 financial year through the mentioned three-pronged approach.

The Commission

The Anti-Corruption Commission is established as an independent body. It is however also a government agency as contemplated in the Public Service Act, 1995 (Act No. 13 of 1995). The Commission is headed by a Director who is assisted in the execution of control over the Commission by a Deputy Director. The Director and Deputy Director are appointed by the National Assembly upon nomination by the President. They are appointed on a full-time basis for five years and may be reappointed upon expiry of their term.

In addition to the Office of the Director and Deputy Director, the Commission is organised into the following directorates and division:

- o Directorate Investigation and Prosecution
- o Directorate Public Education and Corruption Prevention
- o Division Human Resources, Administration and Auxiliary Services

Mandate and Statutory Functions

The Anti-Corruption Commission (ACC) is mandated to combat and prevent corruption through law enforcement, educating the public and enlisting their support against corruption, and providing advisory services.



In terms of the Anti-Corruption Act, 2003 the ACC has the following core functions:

o **Investigation function**

The ACC investigates matters that in its opinion raise suspicion that the following has occurred or is about to occur:

- Conduct constituting corruption; or
- Conduct prone or conducive to corruption.

o **Education function**

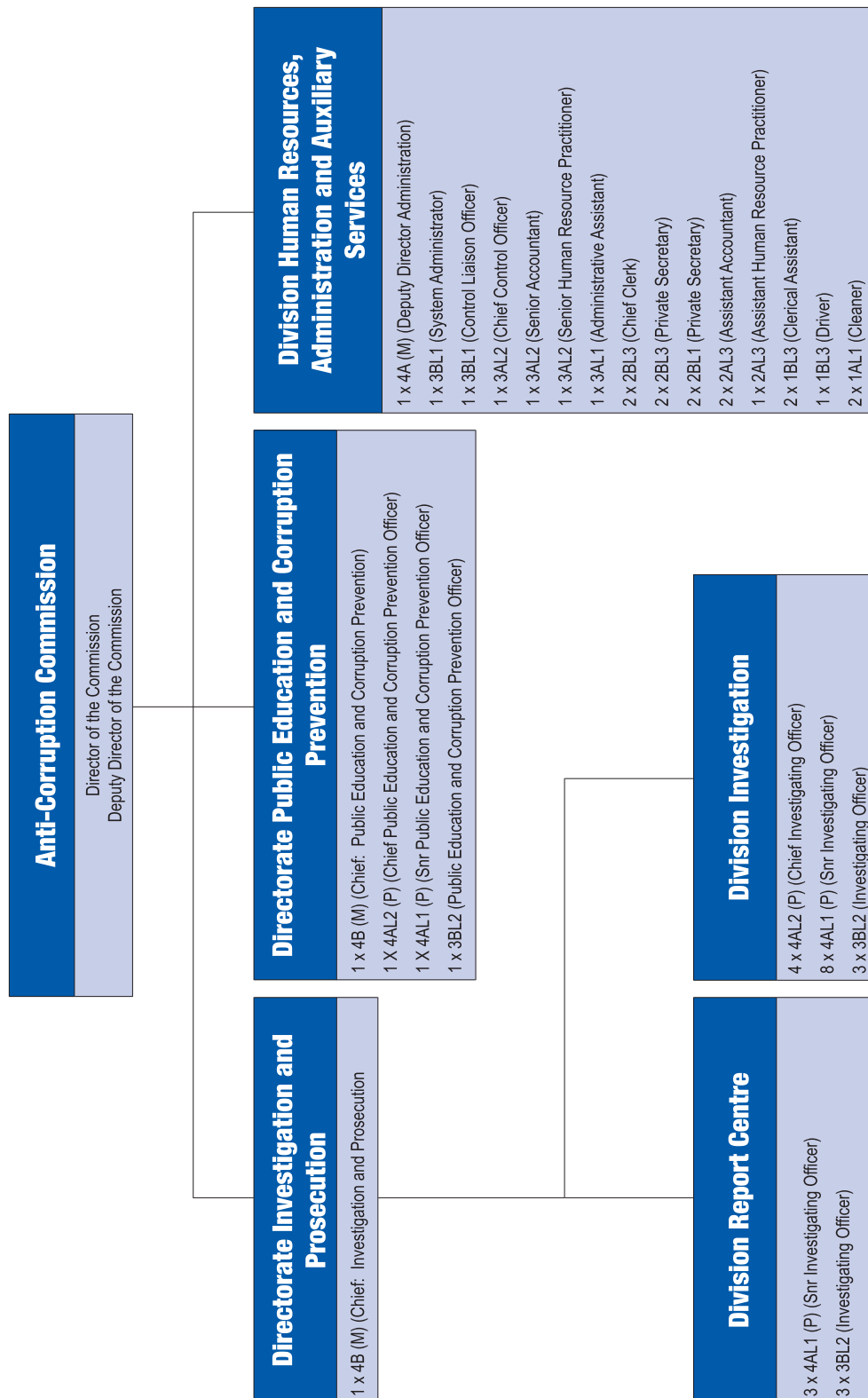
The ACC educates the public on corruption and enlist their support in combating corruption in Namibia.

o **Prevention function**

The ACC examines practices, systems and procedures of public and private bodies to facilitate the discovery of corrupt practices and to secure the revision of practices, systems and procedures that may be prone or conducive to corrupt practices.

Organisational Structure

The graph below represents the Organisational Structure of the ACC that was revised during 2008.



Organisational Components

Investigation and Prosecution

Introduction

The Directorate of Investigation and Prosecution's core responsibilities include:

- o the receiving, processing and analysing of reports of alleged corrupt practices
- o the investigation of matters that raise reasonable suspicion that conduct constituting corruption has occurred or is about to occur
- o the arresting and arraigning of suspects of corruption
- o the liaising with prosecutors to ensure successful prosecution

This Directorate comprises two divisions, namely the Division Report Centre and the Division Investigation.

Reports Received

During the year under review the ACC:

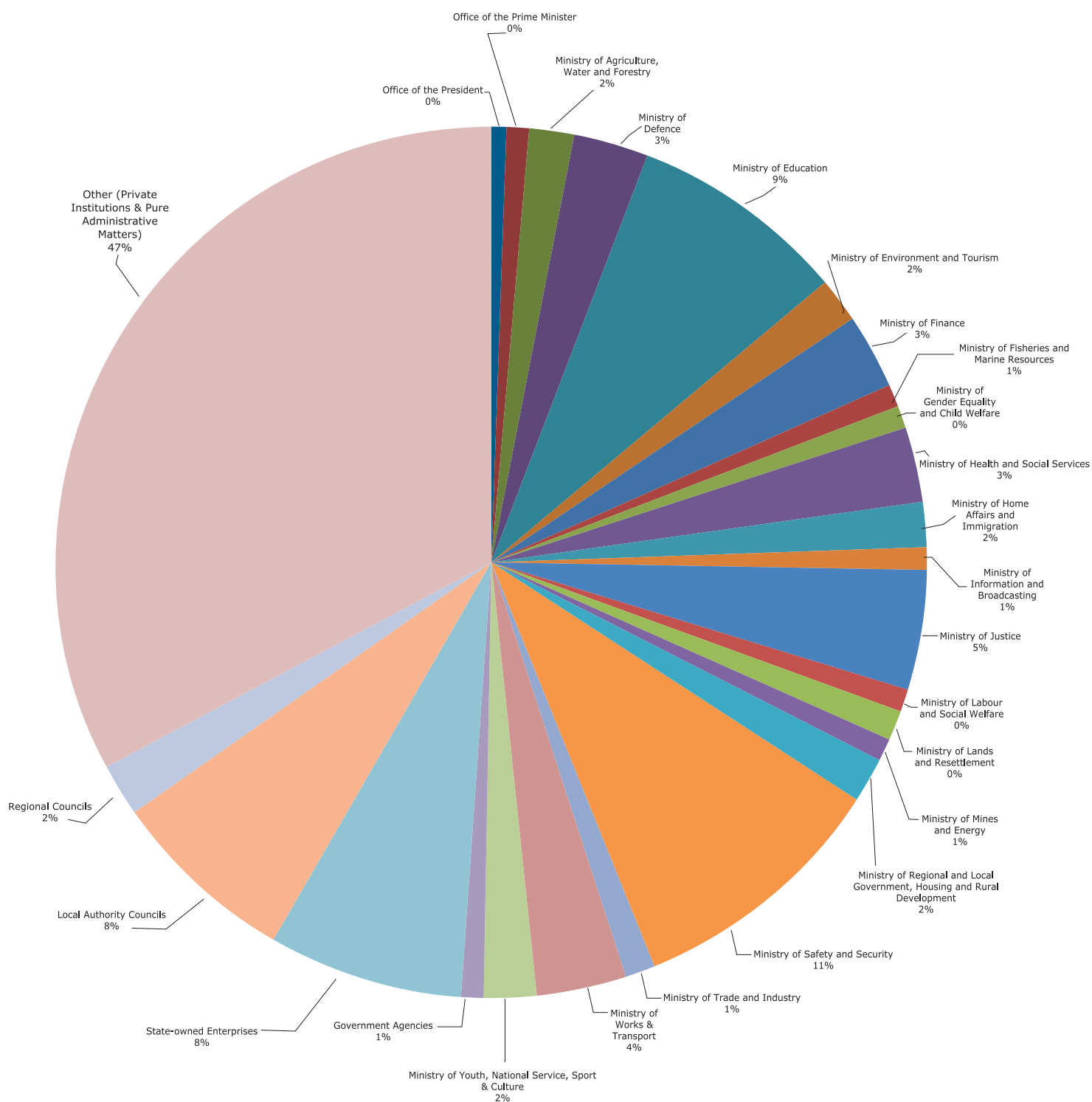
- o received 928 reports of alleged corruption practices
- o referred 93 cases to the Prosecutor-General with a recommendation that criminal prosecution be instituted

In instances where there appeared to be no corrupt practices as contemplated in Chapter 4 of the Anti-Corruption Act, 2003, the information received was forwarded to other appropriate authorities for action or the informants were advised on what action to take.

Challenges Experienced

- o Compared to the previous financial year, there was an increase in the number of reports/allegations of corruption received by the Commission. This is mainly due to the failure of the public to understand the mandate and core functions of the Commission as a result reports are being lodged with the Commission instead of with the relevant authorities.
- o Failure by the public to understand that prosecution is not part of Commission's mandate has also led to unrealistic demands and expectations. The Commission is using its public forums to address these misperceptions.
- o Fear of victimisation due to inadequate legislative measures to protect whistle blowers and witnesses has also had an impact on the number and quality of reports received by the Commission. The Commission has therefore made recommendations to the appropriate functionaries that these issues should be addressed soonest.

Graph Summary of Reports Received



Samples of some of the Cases Investigated/Dealt with during the Period Under Review

ACC CASE NO.	CASE PARTICULARS
ACC2009/0087	Alleged corrupt use of office/position by a member of the Namibian Police Force
	<p>An investigation into allegations that member of the Namibian Police Force solicited moneys or payment in kind from a motorist at the Otjihase Roadblock in order to let the motorist through at the roadblock. The motorist apparently did not have the required certificate authorizing the transportation of carcasses on the vehicle. A sting operation was conducted. The police officer was subsequently arrested and a case docket compiled and forwarded on 19 March 2009 to the Prosecutor-General with a recommendation that the police officer be arraigned on having contravened section 43 of the Anti-Corruption Act, 2003, in that he corruptly used his office or position to obtain a gratification. The Prosecutor-General's decision is awaited.</p>
ACC2008/0681	Alleged corruption with regard to the recruitment of certain Namibian Police Force Members
	<p>An investigation into alleged corrupt practices with regard to the recruitment of certain Namibian Police Force Members. It was alleged, amongst others, that the new recruits did not meet the minimum requirements for enlistment, and that they were appointed merely on account of them being family members of certain high ranking Police Force Members. During the investigation the allegations were substantiated with regard to the recruitment of three members only. Two members of the Namibian Police Force were arrested after it was established that they had manipulated the recruitment process to accommodate their family members. The investigation was concluded and the case docket forwarded to the Prosecutor-General with the recommendation that both of the police officers be arraigned on corruption charges. On 19 August 2008 the Prosecutor-General gave instructions that the accused should be arraigned on three counts of:</p> <ul style="list-style-type: none"> - <i>Contravening section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003)- Corruptly using office or position for gratification</i> <p>The Prosecutor-General's instructions were complied with and the matter is currently before court.</p>
ACC2008/0677	Alleged corrupt offering of a gratification to an employee of the Polytechnic of Namibia
	<p>An investigation into allegations that the owner of a computer company offered money to an employee of the Polytechnic of Namibia in exchange for using his influence to get a tender awarded to the said company. A sting operation was conducted. The owner of the company was thereupon arrested. The investigation docket was thereafter referred to the Prosecutor-General with a recommendation that corruption charges be formulated as the accused had indicated that he would like to plead guilty. On 10 November 2008 the Prosecutor-General instructed that the accused should be arraigned on:</p> <ul style="list-style-type: none"> - <i>Contravening section 35(2)(a) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003)- corruptly giving gratification to an agent as an inducement</i> <ul style="list-style-type: none"> o <i>First alternative –Contravening section 34(a) of the Anti-Corruption Act, 2003 – corruptly giving gratification as an inducement</i> o <i>Second alternative – Contravening section 38(d) of the Anti-Corruption Act, 2003 – bribery of Public Officer</i> <p>The Prosecutor-General's instructions were complied with and the accused was arraigned. He pleaded guilty on the main charge and was convicted and sentenced to N\$20,000.00 or five years imprisonment. The money confiscated was also declared forfeit to the State.</p>

ACC2008/0552	Alleged corrupt solicitation of a gratification by a member of the Namibian Police Force
	<p>An investigation into allegations that a member of the Namibian Police Force corruptly used his position to obtain a gratification in that he solicited money from an individual in exchange for ensuring that a criminal case that had been provisionally withdrawn against the individual will not be re-opened. A sting operation was conducted during which the police officer was arrested. The investigation was finalised and a case docket compiled and forwarded to the Prosecutor-General with the recommendation that the police officer be arraigned on corruption charges. The Prosecutor-General's decision is awaited.</p>
ACC2008/0536	Alleged corrupt use of office/position by an Immigration Control Officer
	<p>An investigation into allegations that an immigration control officer at the Hosea Kutako International Airport corruptly used his office or position to obtain a gratification. It was alleged that he provided for official visitors' entry permits in three forged Swaziland passports and one Congolese expired travel document thereby indicating that the four foreigners had entered Namibia via the said airport whilst that was not the case. The allegations were investigated and substantiated. The immigration control officer and four foreigners were arrested and the case docket was compiled and forwarded to the Prosecutor-General with a recommendation that they all be arraigned on corruption charges. On 11 November 2008 the Prosecutor-General gave instructions that the accused should be arraigned as follows:</p> <ul style="list-style-type: none"> - 4 Counts of contravening section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for gratification (accused 1 only) <ul style="list-style-type: none"> o Alternatively <ul style="list-style-type: none"> 4 Counts of contravening section 56(a) of the Immigration Control Act, 1993 (Act No. 7 of 1993) – aiding or abetting a person to remain in Namibia contrary to the Immigration Control Act - Contravening section 46(c) of the Anti-Corruption Act, 2003 – aiding, inducing or inciting another person to commit an offence under the Anti-Corruption Act, 2003 (accused 2, 3 and 4 only) - Contravening section 29(1) of the Anti-Corruption Act, 2003 – providing false information to an authorized officer (accused 2, 3 and 4 only) <ul style="list-style-type: none"> o Alternatively - contravening section 54(e) of the Immigration Control Act, 1993 – furnishing an immigration officer with false information (accused 2, 3 and 4 only) - Contravening section 56(e) of the Immigration Control Act, 1993 - using or attempting to use a certificate or document not issued by a lawful authority for the purposes of remaining in Namibia (accused 2, 3 and 4 only) <ul style="list-style-type: none"> o Alternatively - forgery and uttering (accused 2, 3 and 4 only) - Contravening section 29(5) of the Immigration Control Act, 1993 – remaining in Namibia after the expiration of the visitor's entry permit (accused 3 and 4 only) - Contravening section 24(b)(iii) of the Immigration Control Act, 1993 – entering or residing in Namibia without a visitor's entry permit (accused 2 only) <ul style="list-style-type: none"> o Alternatively - contravening section 29(5) of the Immigration Control Act, 1993 – remaining in Namibia after the expiration of the visitor's entry permit <p>The Prosecutor-General's instructions were complied with and the matter is currently pending before court.</p>

ACC2008/0496	Alleged corrupt use of office/position by an employee of the Directorate of Elections
	<p>An investigation into allegations that a staff member of the Directorate of Elections was corruptly using a government vehicle to transport his child to school. During the investigation the staff member and his wife offered and paid a bribe to ACC officials. They were subsequently arrested. The investigation was concluded and the case docket referred to the Prosecutor-General with a recommendation that the accused be arraigned on corruption charges. On 27 November 2008 the Prosecutor-General gave instructions that the accused should be arraigned as follows:</p> <ul style="list-style-type: none"> - <i>Count 1 (with regard to the husband only) – Contravention of section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for gratification</i> <ul style="list-style-type: none"> o <i>Alternatively – contravention of section 83(2) of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) – using a vehicle without the owner's consent</i> - <i>Count 2 (with regard to the husband and wife) – Contravention of section 35(2)(a) of the Anti-Corruption Act, 2003 – corruptly giving a gratification to an agent as an inducement</i> <ul style="list-style-type: none"> o <i>Alternatively – contravention of section 34(a) of the Anti-Corruption Act, 2003 – corruptly giving gratification as an inducement</i> <p>The Prosecutor-General's instructions were complied with and the matter is currently pending before court.</p>
ACC2008/0363	Alleged corrupt use of office/position by a staff member of Ministry of Works and Transport
	<p>An investigation into allegations that a staff member of the Ministry of Works and Transport corruptly during a weekend transported government property (scaffolding) with a government vehicle to a scrap dealer to sell to such scrap dealer. The allegations were investigated and substantiated. The investigation was concluded and the case docket referred to the Prosecutor-General with a recommendation that employee be arraigned on corruption charges. On 28 November 2008 the Prosecutor-General gave instructions that the staff member should be arraigned as follows:</p> <ul style="list-style-type: none"> - <i>Theft of motor vehicle</i> <ul style="list-style-type: none"> o <i>First alternative – Contravention of section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for gratification</i> o <i>Second alternative – Contravention of section 83(2) of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) – driving a motor vehicle without the owner's consent or person lawfully in charge thereof</i> - <i>Theft of scaffolding</i> <p>The Prosecutor-General's instructions were complied with. The matter is currently pending before court.</p>
ACC2008/0291	Alleged corrupt use of office/position by staff members of Ministry of Education
	<p>An investigation into allegations that two officials in the Creditors Division of the Ministry of Education, acting in concert with persons representing a particular service provider responsible for sewerage and refuse removal, corruptly used their office or positions in the said division of the Ministry of Education to obtain a gratification for their own benefit and/or that of the service provider. It was alleged that amounts on invoices submitted by the service provider were altered and that payment was rendered by the Ministry on the changed invoices. The matter was investigated and the allegations substantiated. The State suffered a loss of approximately N\$519,908.60. The case docket was forwarded to the Prosecutor-General on 3 November 2008 with a recommendation that the two officials of the Ministry of Education and three individuals acting for the service provider be arraigned on corruption charges. The Prosecutor-General's decision is awaited.</p>

ACC2008/0229	Alleged corrupt use of office/position for gratification by an employee of the Rundu Town Council <p>An investigation into allegations that an employee of Rundu Town Council was corruptly using his position for personal gratification. It was alleged that he delayed the approval of building plans by the Council and then solicited moneys in exchange for the approval of such plans. The allegations were investigated and substantiated and the employee arrested. The investigation was concluded and the case docket referred to the Prosecutor-General with a recommendation that the employee be arraigned on corruption charges. On 13 March 2009 the Prosecutor-General gave instructions that the employee of the Rundu Town Council should be arraigned on three charges of:</p> <ul style="list-style-type: none"> - <i>Contravention of section 35(1)(a) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly soliciting, accepting or agreeing to accept a gratification by an agent</i> <ul style="list-style-type: none"> o <i>First alternative - contravention of section 38(b) the Anti-Corruption Act, 2003 – bribery of public officer</i> o <i>Second alternative - contravention of section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for gratification</i> <p>The Prosecutor-General's instructions were complied with. The matter is currently pending before court.</p>
ACC2008/0222	Alleged corrupt use of office/position for gratification by a staff member of the National Planning Commission <p>An investigation into allegations that a staff member of the National Planning Commission solicited moneys in exchange for assisting a person to be shortlisted for a position at National Planning Commission and for furnishing such person with the interview questions. The allegations against the National Planning Commission's staff member were substantiated and the case docket forwarded to the Prosecutor-General with a recommendation that the staff member be arraigned on corruption charges. On 13 March 2009 the Prosecutor-General gave instructions that the staff member of the National Planning Commission should be arraigned on the following charges:</p> <ul style="list-style-type: none"> - <i>Contravention of section 35(1)(a) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly soliciting, accepting or agreeing to accept a gratification by an agent</i> <ul style="list-style-type: none"> o <i>First alternative – contravention of section 38(b) the Anti-Corruption Act, 2003 – bribery of public officer</i> o <i>Second alternative - contravention of section 43(1) of the Anti-Corruption Act, 2003 – corruptly using office or position for gratification</i> <p>The Prosecutor-General's instructions were complied with. The matter is currently pending before court.</p>
ACC2008/0209	Alleged corrupt use of office/position for gratification by a member of the Namibian Police Force <p>An investigation into allegations that a member of the Namibian Police acting in concert with two civilians corruptly used his office or position as a driving examiner and traffic officer in the Namibian Police Force to obtain a gratification of N\$1,000.00 in exchange for issuing or authorizing the issuing of a driving licence to an individual without subjecting him to the examination or testing prescribed by the Road Traffic and Transport Act, 1999. The matter was investigated and substantiated. The case docket was compiled and forwarded to the Prosecutor-General with a recommendation that the police officer and two civilians be arraigned on corruption charges, alternatively on contravening the Road Traffic and Transport Act. On 4 November 2008 the Prosecutor-General gave instructions that the police officer and two civilians be arraigned on:</p> <ul style="list-style-type: none"> - <i>Contravention of section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for gratification</i> <i>Alternatively</i> - <i>Contravention of section 37(10) of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) – unlawfully authorizing the issuing of a driving licence</i> <p>The Prosecutor-General's instructions were complied with. The matter is currently pending before court.</p>

ACC2008/0206	Alleged corrupt use of office/position by a member of the Namibian Police Force
	<p>An investigation into allegations that a member of the Namibian Police Force attached to the Windhoek Magistrates Court received moneys in exchange for aiding a prisoner to escape from lawful custody. The allegations were substantiated and the case docket compiled and forwarded to the Prosecutor-General with a recommendation that the staff member be arraigned on corruption charges. On 19 June 2008 the Prosecutor-General gave instructions that the police officer should be arraigned on the following charges:</p> <ul style="list-style-type: none"> - <i>Contravention of section 35(1)(a) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly accepting a gratification by an agent</i> <ul style="list-style-type: none"> o <i>Alternatively - Contravention of section 43(1) of the Anti-Corruption Act, 2003 – corruptly using office or position for gratification</i> <p>The Prosecutor-General's instructions were complied with. The matter is currently before court.</p>
ACC2008/0167	Alleged corrupt practice by employee of Namib Contract Haulage (Pty) Ltd (NCH)
	<p>An investigation into allegations that a sales clerk at Namib Contract Haulage (Pty) Ltd (NCH) was corruptly using her position at the company to benefit herself. It was alleged that she pocketed moneys that were given to her for safekeeping by the drivers of NCH in respect of the transport of passengers and goods on NCH vehicles. The allegations were substantiated and the case docket compiled and forwarded to the Prosecutor-General. On 18 February 2009 the Prosecutor-General instructed that the NCH sales clerk should be arraigned on four counts of theft. The matter is currently pending before court.</p>
ACC2008/0050	Alleged corrupt use of office or position by employee of Ministry of Agriculture, Water and Forestry
	<p>An investigation into allegations that a works inspector at the Ministry of Agriculture, Water and Forestry had moved a trailer belonging to the Ministry from the Ministry's premises to his private residence and that he had removed certain parts of the trailer and placed the same on his private vehicle. The matter was investigated and substantiated. A case docket was compiled and forwarded to the Prosecutor-General with a recommendation that the official be arraigned on corruption charges. On 9 May 2008 the Prosecutor-General gave instructions that the official should be arraigned on:</p> <ul style="list-style-type: none"> - <i>Contravention of section 43(1) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003) – corruptly using office or position for a gratification</i> <ul style="list-style-type: none"> o <i>Alternatively - Theft</i> <p>The instructions were complied with and the matter is currently pending before court.</p>
ACC2008/0048	Alleged corrupt use of office/position at the Roads Authority Company
	<p>An investigation into allegations that three officials at the Roads Authority Company corruptly used their positions to obtain a gratification for their own benefit and that of others in respect of the issuing of learners' licences, driving licences and certificates of roadworthiness. It was furthermore alleged that two private individuals conspired with them to commit these corrupt practices. The allegations were substantiated and the case docket forwarded to the Prosecutor-General during February 2009 with a recommendation that the three officials and the two private individuals be arraigned on corruption charges. The Prosecutor-General's decision is awaited.</p>

ACC2008/0024	Alleged corrupt posing as ACC Authorised Officers by private individuals
	<p>An investigation into allegations that two individuals falsely pretended to be authorized officers of the Anti-Corruption Commission mandated to act under the authority of the Commission. A sting operation was conducted and the two individuals were arrested. The investigation was concluded and a case docket forwarded to the Prosecutor-General with the recommendation that the two individuals be charged with having committed an offence in relation to the functions of the Commission – falsely pretending to be authorized officers or that they have the powers of such officers or that they are acting under an authorization of the Commission issued under the Anti-Corruption Act. On 19 June 2008 the Prosecutor-General gave instructions that the two accused should be arraigned on the following charge:</p> <ul style="list-style-type: none"> - Contravention of section 29(1)(g) of the Anti-Corruption Act, 2003 (<i>Act No. 8 of 2003</i>)– falsely pretending to be authorized officers <p>The Prosecutor-General's instructions were complied with. The matter is currently pending before court.</p>
ACC2007/609	Alleged corrupt giving of a gratification to an official of Inland Revenue
	<p>An investigation into allegations that an amount of N\$40,000.00 was offered to an official of the Tax Audit Division of Inland Revenue, Ministry of Finance, as an inducement to manipulate the amounts that were due in terms of tax assessments that had been done in respect of two individuals and a company. During a sting operation by the ACC one individual was arrested. The investigation was thereafter finalised and the case docket forwarded to the Prosecutor-General with a recommendation that the individual be arraigned on corruption charges. On 9 May 2008 the Prosecutor-General's decided to arraign the accused on:</p> <ul style="list-style-type: none"> - Contravention of section 35(2)(a) of the Anti-Corruption Act, 2003 (<i>Act No. 8 of 2003</i>)– corruptly giving a gratification of N\$40,000.00 to an agent as an inducement <ul style="list-style-type: none"> o Alternatively - Contravention of section 34(a) of the Anti-Corruption Act, 2003 – corruptly giving a gratification of N\$40,000.00 as an inducement <p>The case is currently pending before court.</p>
ACC2007/0518	Alleged corrupt solicitation of a gratification by an employee of the Weatherly Mine
	<p>An investigation into allegations that an employee of Weatherly Mine at Kombat solicited moneys in exchange for arranging employment at the mine. The allegations were investigated and substantiated. Upon conclusion of the investigation the case docket was forwarded to the Prosecutor-General with a recommendation that the employee be arraigned on corruption charges. On 1 April 2008 the Prosecutor-General gave instructions that the employee should be arraigned on two counts of :</p> <ul style="list-style-type: none"> - Contravening section 35(1)(a) of the Anti-Corruption Act, 2003 (<i>Act No. 8 of 2003</i>) – corruptly soliciting, accepting or agreeing to accept a gratification by an agent <ul style="list-style-type: none"> o First alternative – contravening section 38(b) the Anti-Corruption Act, 2003 – bribery of public officer o Second alternative – contravening section 43(1) of the Anti-Corruption Act, 2003 – corruptly using office or position for gratification <p>The instructions were complied with and the matter is currently pending before court.</p>

ACC2007/0507	Alleged corrupt use of office/position by certain employees of the Otavi Village Council
	An investigation into allegations that the Chief Executive Officer of the Otavi Village Council had misappropriated Build Together/Council Funds to the amount of N\$50,833.95 and that an employee of the Council had corruptly been awarded a tender. Certain of the allegations were substantiated and the Chief Executive Officer and employee were arrested. The investigation was concluded and a case docket compiled and forwarded to the Prosecutor-General on 4 February 2009 with a recommendation that the Chief Executive Officer and employee be arraigned on corruption charges. The Prosecutor-General's decision is awaited.
ACC2007/0248	Alleged corrupt use of office/position at the Roads Contractor Company (RCC)
	An investigation into allegations that a former CEO of the Roads Contractor Company (RCC) corruptly used his office/position to obtain a gratification for a company and certain individuals. The amount involved was estimated at N\$5,065,071.00. The matter was investigated and a case docket compiled and forwarded to the Prosecutor-General on 10 June 2008 with a recommendation that the CEO and other individuals be charged with various offences ranging from corrupt practices in terms of the Anti-Corruption Act, 2003 to the common law crime of fraud. The Prosecutor-General's decision is awaited.
ACC2007/0140(a)	Alleged inducement/incitement of a private individual to commit an offence
	<p>An investigation into allegations that a private individual abetted, induced and incited another individual to offer a gratification of N\$250,000.00 to a middleman to facilitate the corrupt issuing of a work permit by the Ministry of Home Affairs and Immigration. The matter was investigated and substantiated and a case docket was compiled and forwarded to the Prosecutor-General with a recommendation that the suspects should be arraigned on corruption charges. On 31 January 2008 the Prosecutor-General instructed that the two suspects should be arraigned on:</p> <ul style="list-style-type: none"> - <i>Contravening section 46(c) of the Anti-Corruption Act, 2003 (Act No. 8 of 2003)– abets, induces or incites another person to commit the offence of corruptly giving a gratification in contravention of the Anti-Corruption Act</i> <p>The instructions were complied with and the matter is currently pending before court.</p>
ACC2007/0140(b)	Alleged corrupt giving of a gratification to a Natis official and a member of the Namibian Police Force Traffic Division
	An investigation into allegations that a civilian who applied for roadworthiness certificates for a truck and trailer corruptly offered a gratification in the amount of N\$1,500.00 to a Natis official for the issuing of such certificate without the truck being examined as required by law. A Namibian Police Traffic Officer was also implicated. The matter was investigated and substantiated. The case docket was forwarded to the Prosecutor-General on 4 February 2009 with a recommendation that the civilian, Natis official and police officer be arraigned on corruption charges. The Prosecutor-General's decision is awaited.
ACC2007/0126	Alleged corrupt acceptance/solicitation of gratification by former editor-in-chief of the Informanté Newspaper
	An investigation into allegations that the former editor-in-chief of the Informanté Newspaper owned by Trustco Media (Pty) Ltd had accepted/solicited a gratification to the approximate amount of N\$248,500.00 whilst negotiating the purchase price of printing paper and a printing press on behalf of his employer. The matter was investigated and a case docket compiled and forwarded to the Prosecutor-General on 18 August 2008 with a recommendation that the former editor-in-chief be charged with having contravened section 35 of the Anti-Corruption Act, 2003. The Prosecutor-General's decision is awaited.

Public Education and Corruption Prevention

Introduction

The Directorate of Public Education and Corruption Prevention's core responsibilities include:

- o to educate the public on the evils of corruption and to foster ethical values. This is done through training and integrity related workshops that are tailor-made to meet the needs of target groups
- o to identify weaknesses and shortcomings in the systems, practices and policies of public and private bodies and advise on the changes to be effected thereto in order to prevent the occurrence or reoccurrence of corruption

Promotion of Public Awareness on the Risks of Corruption

During the period under review workshops and training sessions on corruption were conducted in all thirteen regions. These workshops and training sessions were mainly attended by senior regional and local government and other senior government officials, members of the media, and traditional, community, church and business leaders. Through its workshops and training sessions the ACC sensitized the public on anti-corruption issues. Educational materials produced by the ACC were also distributed to the participants of these workshops and training sessions. In addition, the ACC also participated in events such as the Africa Public Service Day organized by the Office of the Prime Minister.



The ACC Stand at the Africa Public Service Day attracted substantial attention even that of the Honourable Deputy Prime Minister, Libertine Amadhila.

The table below indicates the areas where, and the period during which sensitisation workshops and training sessions were conducted by ACC Officials.

Workshop/Training Session	Audience	Period
Kavango Region: Rundu	Staff and students of the Rundu Vocational Training Centre.	17 April 2008
	Staff and students of the Rundu Health Training Centre.	18 April 2008
	The Governor, the Chief Regional Officer and staff from the Kavango Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	28 April 2008



Workshop at Rundu Vocational Training Centre



Workshop at Rundu Health Training Centre



Workshop for Kavango Regional Council and Others

Omaheke Region: Gobabis	The Governor, the Chief Regional Officer and staff from the Omaheke Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	May 2008
Ohangwena Region: Eenhana	The Governor, the Chief Regional Officer and staff from the Ohangwena Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	May 2008
Oshana Region: Oshakati	The Governor, the Chief Regional Officer and staff from the Oshana Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	May 2008
Khomas Region: Windhoek	CID Officers of the Namibian Police Force attended a sensitisation workshop at Patrick Iyambo Police College, Windhoek.	May 2008
Oshikoto Region: Omuthiya	The Governor, the Chief Regional Officer and staff from the Oshikoto Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	June 2008

Khomas Region: Windhoek	Pastors representing various churches, as well as representatives from different faith-based organisations attended a Church Leaders' Sensitisation Seminar at Greiters Centre, Windhoek.	June 2008
Hardap Region: Mariental	The Governor, the Chief Regional Officer and staff from the Hardap Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	June 2008
Caprivi Region: Katima Mulilo	The Governor, the Chief Regional Officer and staff from the Caprivi Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	June 2008
Kunene Region: Opuwo	The Governor, the Chief Regional Officer and staff from the Kunene Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	July 2008
Kunene Region: Khorixas	The Governor, the Chief Regional Officer and staff from the Kunene Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	July 2008
Omusati Region: Outapi	The Governor, the Chief Regional Officer and staff from the Omusati Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	July 2008
Karas Region: Keetmanshoop	The Governor, the Chief Regional Officer and staff from the Karas Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	July 2008
Khomas Region: Khomas	The Governor, the Chief Regional Officer and staff from the Otjozondjupa Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	August 2008
Otjozondjupa Region: Otjiwarongo	The Governor, the Chief Regional Officer and staff from the Otjozondjupa Regional Council; Inspectors of Education, Principals, and other public officials representing the different government offices in the region; Church leaders; representatives from Parastatals, the Business sector and Civil Society; and members of the public.	October 2008
Oshikoto Region: Omuthiya	Staff and learners of the Amateta Primary School.	November 2008



Sensitisation of the staff and learners of the Amateta Primary School in Omuthiya



Workshop for the Otjozondjupa Regional Councillors and Others

Human Resources, Administration and Auxiliary Services

Introduction

The Division Human Resources, Administration and Auxiliary Services is in short responsible for managing the finances, procuring goods and services, providing information and technology services, and ensuring efficient human resources management at the ACC.

Finance Services

The Commission through internal control systems facilitated prompt payment to its suppliers.

Human Resources Services

- o **Recruitment**

During the period under review the ACC recruited 12 additional staff members.

- o **Staff training and development**

In an effort to ensure that the ACC officials perform optimally training was provided for with the focus in the core area of investigations.

The Commission also organized a study tour for its public education officials to the Kenya Anti-Corruption Commission. This visit enabled the ACC to share in their best practices in fighting corruption and establish a network mechanism for future cooperation.

Administration Services

The ACC has a fleet of vehicles and with due diligence and controls the Commission's vehicles were well utilized.

Information and Technology Services

Through well maintained internet and e-mail connectivity the ACC was able to share information on the Commission both within and beyond national borders.



National and International Support and Engagements

Financial Support

United Nations Democracy Fund (UNDEF) Grant

A grant was awarded by the United Nations Democracy Fund (UNDEF) in respect of a project that aimed at strengthening the capacity of the newly established Anti-Corruption Commission and at the same time supporting the Government of Namibia's objective to ensure good governance, accountability and service delivery in line with the national development objectives. The project commenced during 2007 and ended 31 December 2008. It was executed by the Anti-Corruption Commission in partnership with the United Nations Development Programme.

With this UNDEF financial support the ACC undertook the activities mentioned hereunder.

o Development of Anti-Corruption Educational Materials

The following materials were produced with the UNDEF financial support:

- 4000 Copies of the Anti-Corruption Act Pocket Booklet
- 1000 Copies of the "Say No-Way to Corruption, Be patriotic" Anti-Corruption Information Booklet
- 8000 Copies of the "Frequently Asked Questions" Booklet
- 47000 Brochures on corruption
- 10 Roll-up Banners containing anti-corruption messages
- 7000 Posters containing anti-corruption messages
- 8000 Anti-Corruption Pens
- 8000 Anti-Corruption Rulers
- 1550 Anti-Corruption T-shirts
- 400 Anti-Corruption Caps

o Commemoration of the International Day against Corruption

The UNDEF financial support made it possible for the ACC to commemorate the International Day against Corruption for the two consecutive financial years 2007/08 and 2008/09.



His Excellency, President Hifikepunye Pohamba, with the ACC Director and Deputy Director at the Commemoration of the International Anti-Corruption Day at the UN Plaza, Katutura

During December 2007 Namibia gave special significance to the day with the Head of State, His Excellency President Hifikepunye Pohamba, delivering a keynote address at the UN Plaza in Katutura, Windhoek. The function was attended by a cross-section of people that included the former Head of State, the UN Resident Coordinator, the Director of the Botswana's Directorate on Corruption and Economic Crime (DCEC), the Secretary-General of the Council of Churches in Namibia (CCN), the Chief Executive Officer of the Namibia Chamber of Commerce and Industry (NCCI), the Executive Director of Women's Action for Development (WAD), and representatives of the Diplomatic Corps.



Depicted above are the UN Resident Coordinator, Mr Simon Nhongo, His Excellency, President Hiifikepunye Pohamba, the ACC Director, Mr Paulus Noa, His Excellency, Dr Sam Nujoma, the Head of the Botswana Directorate of Corruption and Economic Crime, Mr Katholo



The ACC Logo was launched by His Excellency President Hiifikepunye Pohamba, during the event at the UN Plaza. Depicted with the President are Hon Willem Konjore and Reverend Strydom

During December 2008 the ACC commemorated the International Day against Corruption by hosting a Youth Integrity Show. The main objective of the show was to build an effective partnership with the Namibian Youth and through the medium of music instill ethics and integrity. To ensure active participation by the youth the ACC contracted GAZZA, a renowned artist in Namibia who enjoys support amongst a large sector of the youth. GAZZA, who acts as an ambassador for our country at various forums appeared to be an effective partner in the fight against corruption and for promoting integrity amongst the youth.



Commemoration of International Day against Corruption at Zoo Park – December 2008. Depicted above are the ACC Director and Deputy Director with representatives from the National Youth Council of Namibia and the SWAPO Party Youth League.



Depicted above are ACC Youth Stakeholders that participated in Commemoration of International Day against Corruption at Zoo Park – December 2008.

o Anti-Corruption Training

Two ACC Investigating Officers attended a three week Postgraduate Certificate Course in Corruption Studies at the Hong Kong University. One ACC Investigating Officer attended the 13th Annual Conference and General Meeting of the International Association of Prosecutors. The expenditure incurred with regard to the above was defrayed from the UNDEF Grant.

o Development of a Strategic Plan



ACC Strategic Plan Stakeholders' Workshop - August 2008

The ACC developed a Strategic Plan. It was a consultative process that included a workshop with a variety of key stakeholders. A United Nations Volunteer that assisted with this process as well as other expenditure such as the Stakeholders Workshop was paid for from the UNDEF Grant.

o Ongwediva Trade Fair



ACC stand at Ongwediva Trade Fair - August 2008

The financial support by UNDEF made it possible for the ACC to participate in the Ongwediva Trade Fair during August 2008. Various educational materials were produced and distributed during the trade fair. A mini survey was also conducted mainly to determine people's perception of the ACC and to test their understanding on what conduct constitutes corruption. A total of 750 people participated in the survey by completing a questionnaire that was distributed at the fair. The findings of the mini survey indicated that 43% of the participants did not report corruption as they were afraid that it might get them into trouble; 27% did not know where to report corruption; and

26% were not familiar with the procedures for reporting corruption cases.

o Print and electronic media campaigns

The ACC also utilized the grant for its print and electronic media campaigns. Various advertisements containing anti-corruption messages appeared in newspapers, magazines and on selected billboards to sensitise the public on the dangers and evils of corruption. In order to reach even the most remote areas of the country, ACC advertisements were also aired on the NBC National Radio Service in virtually all of the local languages. Some advertisements were also aired through other radio services such as Radio 99.



ACC Billboard at Hosea Kutako International Airport



Assistance by Hanns Seidel Foundation

The Hanns Seidel Foundation undertook to financially support the development of an ACC Website. In this regard an agreement was signed between the ACC and the Foundation in terms of which the Foundation also undertook to maintain the website for two years after the official launching of the website.

ACC Interaction with International Entities



Meeting with the Head of Delegation of the European Commission during 2008

The Director and Deputy Director of the ACC met with the Head of Delegation of the European Commission, Her Excellency Dr Elizabeth Pape, during 2008 at the European Commission's office in Windhoek to discuss matters of mutual interest.

Meeting with French Ambassador and French Embassy Officials

ACC Director and Deputy Director met with the French Ambassador to Namibia, His Excellency Philippe Bossière, and French officials at the French Embassy during 2008 to discuss matters of mutual interest. During this meeting the Director of the ACC presented the French Ambassador with some of the educational materials developed by the ACC.



Meeting with US Ambassador and US Embassy Officials during 2008

During 2008 the ACC received a courtesy call from the US Ambassador to Namibia, Her Excellency Denise Mathieu. During this meeting the Director of the ACC presented the US Ambassador with some of the educational materials developed by the ACC.

Meeting with Democratic Republic of Congo Ambassador

During 2008 the ACC received a courtesy call from the DRC Ambassador to Namibia, His Excellency AKK Wa-Kimba. During this meeting the Director of the ACC presented the DRC Ambassador with some of the educational materials developed by the ACC.





Meeting with officials from the Indonesian Embassy

During October 2008 the ACC received a courtesy call from the outgoing and incoming First Secretaries of the Indonesian Embassy to discuss possible future cooperation between the ACC and its counterpart in Indonesia.

Intergovernmental Expert Working Group Meeting in Vienna, Austria

The Deputy Director of the ACC represented the ACC at the open-ended meeting of the Intergovernmental Expert Working Group on the review of the implementation of the United Nations Convention against Corruption (UNCAC). This working group was established by the Conference of State Parties (COSP) to UNCAC during its Second Session. The meeting of the said working group took place in September 2008 in Vienna, Austria.

Third Annual Conference and General Meeting of IAACA, Kiev, Ukraine

The ACC Director and the Head of Investigation and Prosecution attended the Third Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA) held in Kiev, Ukraine from the 3rd to 6th of October 2008. The theme of the conference was "Criminalisation and Law Enforcement". The Conference in Kiev presented the opportunity to representatives from all national anti-corruption authorities to discuss and share their experiences on criminalization and law enforcement to assist with the implementation of the United Nations Convention against Corruption and to more effectively combat corruption.



13TH International Anti-Corruption Conference, Athens, Greece

The Director of the ACC accompanied officials from the Namibia Institute of Democracy to the 13th International Anti-Corruption Conference (IACC) held from the 30th of October to the 2nd of November 2008 in Athens, Greece. The expenditure with regard to the ACC Director's flight tickets was borne by the Finnish Embassy. The conference was hosted by the Greek government, Transparency International and the National Chapter in Greece. The title of the 13th IACC was Global Transparency: Fighting corruption for a sustainable future. Participants from around the world representing the different sectors such as civil society, government and business debated to find effective solutions for tackling corruption and limiting its pervasive impact on people's lives, particularly the most vulnerable.

Meeting with representatives of the Hanns Seidel Foundation

The Director and Deputy Director of the ACC met with the Hanns Seidel Foundation's newly appointed Director for International Contact and Cooperation, Mr Christian Hegemer, their Head of the desk for Sub-Saharan Africa, Mr Klaus Liepert, and their Resident Representative, Mr Wolfgang Kleine, at the ACC Headquarters during November 2008. The purpose of the meeting was for the Director: International Contact and Cooperation to familiarize himself with the Foundation's activities in Namibia.

Ad Hoc Experts Group Meeting, Kigali, Rwanda

The ACC Director attended the Ad Hoc Experts Group Meeting held in Kigali, Rwanda from 16 to 18 February 2009. The travel expenses and daily subsistence allowance of the ACC Director were paid by the UN Economic Commission for Africa (ECA). The objective of the meeting was to review a draft research study entitled "Assessing the efficiency and impact of anti-corruption institutions in Africa" with the aim at identifying the strengths, weaknesses and capacity challenges of national institutions in Africa in order to design appropriate intervention strategies to enhance the capacity of those institutions.

The Commonwealth of Nations Website


The ACC was invited to become one of the Commonwealth of Nations Website's partners. The ACC accepted this invitation and as a result thereof an advertisement of the ACC appeared on the website (www.commonwealth-of-nations.org) as from 2009 and the same was also included in the Commonwealth Yearbook of 2009.

ACC COMMONWEALTH WEB-PAGE


NAMIBIA ANTI-CORRUPTION COMMISSION

Zero tolerance for corruption

The Namibian Government has declared zero tolerance for corruption. As a testimony to this the Government through Parliament established the Anti-Corruption Commission (ACC). The ACC, established under an Act of Parliament the Anti-Corruption Act, 2003 (Act No 8 of 2003), is an independent and impartial body that is mandated with certain powers, functions and duties. It became officially operational on 1 February 2006 after it was inaugurated by His Excellency, President Hifikepunye Pohamba.



Paulus Noa, Director



Church Leaders seminar

The main functions of the Commission are:

- ✓ to receive or initiate and investigate allegations of corrupt practices;
- ✓ to consult, co-operate and exchange information with appropriate bodies or authorities, including authorities or bodies of other countries;
- ✓ to assemble evidence obtained in the course of its functions and to furnish evidence to the prosecuting authority or any other suitable authority or any other suitable authority of another country, upon a formal request;
- ✓ to investigate any conduct of a person employed by a public body or private body which may be connected with or conducive to corrupt practices;
- ✓ to take measures for the prevention of corruption in public bodies and private bodies by examining the practices, systems and procedures of public bodies and private bodies, and by advising public bodies and private bodies on ways of preventing corrupt practices and on changes of practices, systems and procedures;
- ✓ to educate and foster public confidence and support in combating corruption; and
- ✓ to enlist and foster public confidence and support in combating corruption.

Though it is one of the youngest commissions in Southern Africa, it has been very effective in carrying out its mandate to investigate, educate the public and prevent corruption.


The Commission is headed by the Director who is assisted by the Deputy Director. At present the Commission has a staff complement of 49.

In order to prevent corruption the Commission continuously campaign against corruption and encourage all Namibians to speak out against corruption without reservation. Workshops and seminars are held in regions of the country to educate the public on the negative effects of corruption. Integrity workshops and seminars are held for targeted institutions. The Commission has also developed a five year Strategic Plan to guide it in executing its mission. At present the Commission is contemplating, in cooperation with all stakeholders, to develop a national anti-corruption strategy in order to have a coordinated and sector-wide approach to fighting corruption.

Complaints may be submitted:

- In person to ACC office,
- By post or email,
- By phone call or fax.

The Director, Anti-Corruption Commission, P.O. Box 23137, Windhoek, Namibia
Tel: +264 61 370 600 • Fax: +264 61 300 952 • Toll free: 0800 222 888
Email: anticorruption@iway.na • www.accnamibia.org



Recommendations

During the period under review the ACC came across policies and practices at certain institutions that need to be reconsidered and revised. The most important of these policies and practices are the undermentioned.

o **Appointments of CEO's and CRO's**

During our investigations of allegations pertaining to Local Authorities and Regional Councils it was observed that some grossly irregular administrative decisions were taken and implemented following potential threats to some Chief Executive Officers or Chief Regional Officers that their term of office will not be renewed should they not implement the decisions of the Honourable Councillors. It seems some Honourable Councillors are using their appointing authority as a weapon to threaten administrative officers appointed by them in the execution of their administrative duties. Some mechanisms regarding the appointment and removal of Chief Executive Officers and Chief Regional Officers need to be adopted to ensure security of tenure of office to these officers.

o **State-owned Enterprises**

In some instances the Board of Directors of these enterprises misuses their powers to take decisions that either favour themselves or the management. This state of affairs where public entities are turned into private enterprises for self-enrichment has resulted in some of these entities no longer serving the purposes for which they were established. We have also observed that in respect of some of these entities their enabling legislation gives power to the Auditor-General to audit their records and financial transactions, but in respect of others there are no such provisions. These are public entities established by Government and there appears to be a need to harmonize the legislation.

Furthermore there is a serious need for common principles of good corporate governance to guide the management of State-owned Enterprises. Hopefully with the enactment of the State-owned Enterprises Governance Act, 2006 (Act No. 2 of 2006), there would be an improvement in terms of the management of some of these entities.

The current practice where a Board of Directors and Management (Executive Directors) decide on each other's benefits with the purported approval of the Minister needs to be reconsidered.

o **Funding of Political Parties represented in Parliament**

The issue of funding of Political Parties represented in Parliament has on numerous occasions been brought to the attention of the ACC. While Political Parties represented in Parliament receive public funding, they appear not to account, in a transparent manner, for how the moneys allocated were spent. This is the money of tax payers. Parliament should therefore look into the possibility of adopting legislation regulating the funding of political parties represented in Parliament and furthermore providing for transparency and accountability with regard to the allocation and spending of the moneys so allocated. When public funds are allocated to an institution without asking that institution to account, it is tantamount to money laundering.

o **Public Servants engaged in remunerative work outside the Public Service**

The ACC has received numerous complaints that some public servants are engaged in remunerative work outside their work in the Public Service without the required permission provided for in the Public Service Act. Some of these public servants do no longer commit themselves to public service delivery within official office hours. Some of them are senior government officials who are expected to supervise and set the proper example to others. Permanent Secretaries and supervisors at different levels should take their responsibilities seriously. Disciplinary measures should be instituted in accordance with the Public Service Act and rules and regulations promulgated thereunder against those who abuse their offices for personal gratification.

o **Members of Public Service Commission serving on Statutory and other Bodies**

Section 3(2) of the Public Service Commission Act, 1990 (Act No. 2 of 1990) states in unequivocal terms that a member of the Public Service Commission shall not without the consent of the President perform or engage himself or herself to perform outside remunerative work. The Commission has received reports that some of the Public Service Commissioners are members of Boards of Directors of different companies and are earning an income via these companies without first having sought the required permission from the President. This is a contravention of the law with impunity, particularly when it is perpetrated by members of the body that is responsible for the checks and balances in the Public Service. Institutions are urged to take stringent administrative measures to ensure compliance with relevant laws.

o **Limited Judicial Capacity**

The immediate reason given to the public for the delay in finalising criminal cases in our courts is the shortage of manpower. Needless to say that judicial integrity is adversely affected by the inordinate delays in the finalisation of criminal cases. Good governance within the judiciary is critical. The public may lose confidence in the administration of justice if they do not see any progress in the finalisation of cases. In the same vein, the slow progress in court proceedings renders the efforts by the law enforcement agencies meaningless. It is recommended that every effort possible should be made to ensure that the judiciary is properly funded and that competent and dedicated judicial officers are appointed.

There is a need for the establishment of special courts that can adjudicate corruption and serious economic crime cases. It is believed that such a measure will drastically reduce the delay in the finalisation of court cases.

o **Plea Bargaining**

The present Criminal Procedure Act makes no provision for bargaining power. It is our respectful view that a plea bargaining provision could put the prosecution in a position where it can speedily and effectively dispose of cases. With the present Criminal Procedure Act very few people may be prepared to plead guilty as there is no room for bargaining with the prosecution with regard to the penalty that is to be imposed. The process whereby the accused and the prosecution, in a criminal case, are empowered to work out on a satisfactory disposal of the case, subject to court approval, will conserve judicial resources. Little time will be spent on the disposal of cases. It also limits unnecessary appeals against judgments. Money stolen may also be easily recovered. It is recommended that a broadening of the scope of the Criminal Procedure Act that would allow for plea bargaining should be considered.

The investigations pertaining to corruption and serious economic crime cases can at times be very complex due to advanced technology. It may be necessary to record information electronically or download and decipher computer data. Such information or data may be crucial to prove a case. The need for state-of-the-art legislation providing for the admissibility of evidence obtained through technological means can therefore not be overemphasised. This is especially with regard to collation and use of digital and related evidence.

The Namibian people will be denied justice if our criminal justice system is not kept abreast with statutes that address the rapid technological advancement around the globe. It is recommended that this concern must be addressed by our Government through Parliament. Law abiding citizens may lose moral if relevant laws are not put in place that will allow successful prosecutions.

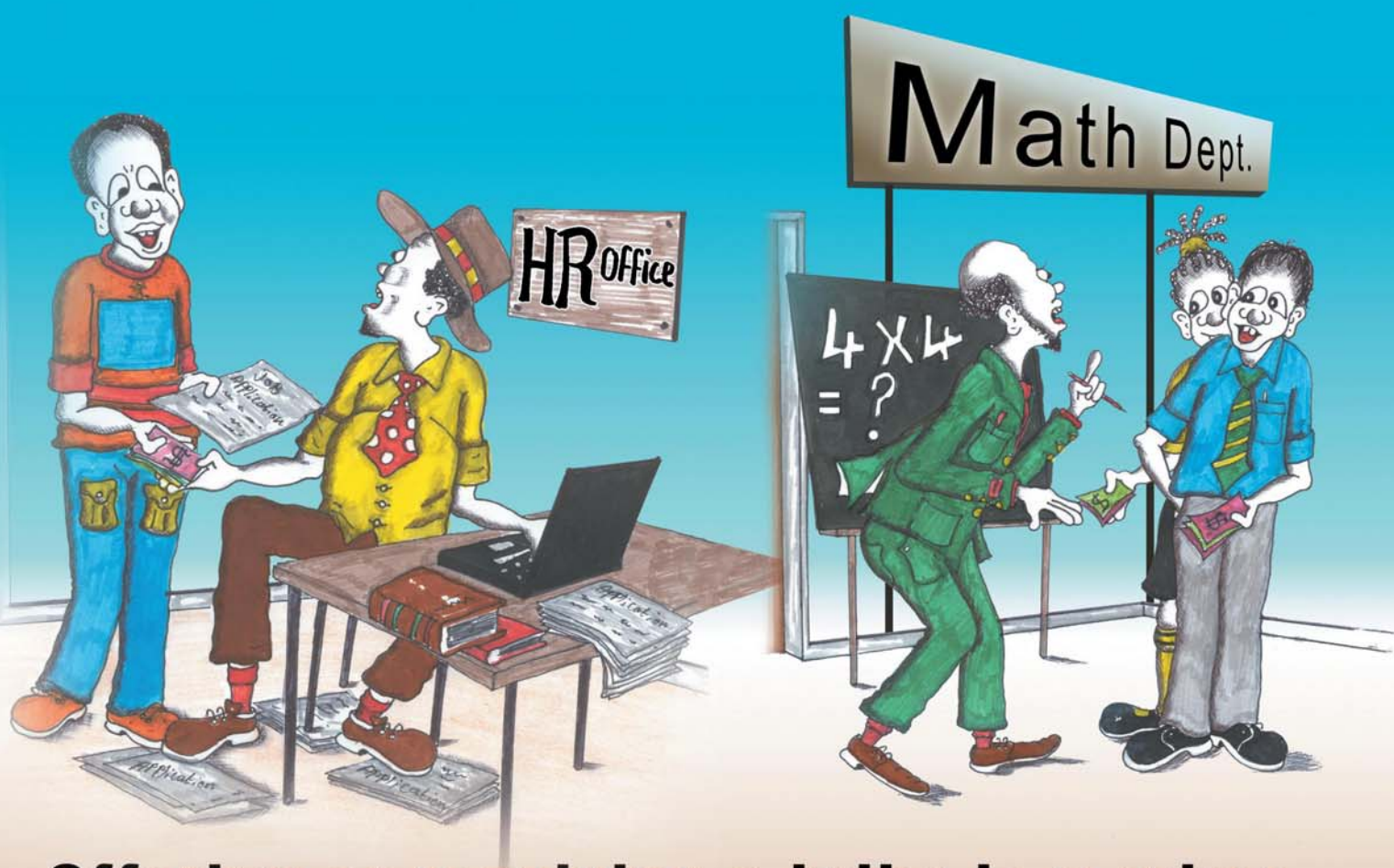
o General

To conclude, the ACC welcomes the coming into force of the Financial Intelligence and the Prevention of Organized Crime laws as the efforts of the ACC in fighting corruption are strengthened through the measures provided for in these laws. The other law that Parliament should be commended for is the State-owned Enterprises Act that aims at ensuring good corporate governance of State-owned Enterprises. What needs to be done now is to ensure the effective enforcement of these good laws.



JOIN IN THE FIGHT AGAINST CORRUPTION

Bribery is a crime!



**Offering or receiving a bribe is a crime.
DO NOT PAY FOR YOUR RIGHTS**



**Report corruption to the ACC's
toll-free hotline 0800 222 888**



• PO Box 23137 Windhoek • Tel.: (061) 370-600 • Fax: (061) 300-952
• Physical Address: 12th Floor Dr. Frans Indongo Building, Dr. Frans Indongo St, Windhoek
• E-Mail: anticorruption@accnamibia.org

Notes

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Notes

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