

# ACC Annual Report 2011 – 2012



BE PART OF THE FIGHT!

### **VISION**

To be a world class Anti-Corruption Commission

### **MISSION**

To fight corruption in Namibia through effective law enforcement & preventative measures in a professional manner for the good of society

### **CORE VALUES**

Integrity

Accountability

Courage

Transparency

Excellence

Fidelity to the law

Fairness and impartiality

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**Mr Paulus K Noa**  
*Director*



**Adv E L van der Merwe**  
*Deputy Director*



The Anti-Corruption Commission once again accounts to the Namibian people on its activities for 2011/2012 through this annual report. The mandate of ACC is derived from the Anti-Corruption Act, 2003 (Act No 8 of 2003).

The Act was passed in 2003 after way back in 1996 Cabinet adopted the recommendation of the then Attorney General, Advocate R.V. Rukoro, to have a national consultative legislative, administrative and public education framework for the promotion of ethical behaviour and the prevention and combating of corruption in all sectors of Namibian society. The Act does not only mandate the ACC to receive or initiate and investigate allegations of corrupt practices, but also to educate the public and disseminate information on the evil and dangers of corruption. It is further the mandate of the ACC to examine the practices, systems and procedures of public bodies and private bodies to facilitate the discovery of corrupt practices and also to advise public bodies and private bodies on ways of preventing corrupt practices.

It is universally acknowledged that corruption is a complex phenomenon compounded by deficiencies in broad range of sectors, institutions, and governance processes. Literature and practices have proven that more often than not, anti-corruption agencies are pressured to put emphasis on investigations and left poorly resourced to do more on education, research, surveys and examining the practices, systems and procedures in all sectors. As a result of this unbalanced approach, the successes and failures of the anti-corruption agencies have been measured mostly through the number of cases investigated, suspects arrested and prosecuted, and the number of convicts including their status in society.

Generally, less attention is paid to successes governments have made in terms of legislative and institutional reforms that strengthen governance systems. There is no better investment in good governance than investing in corruption prevention. The adage that “prevention is better than cure” cannot be gainsaid.

Good governance entails strengthening sectoral and institutional integrity to prevent corruption. It is the best method of taking proactive approach towards the fight against corruption. UNDP defines good governance more simply that it is “a participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimised, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society” (UNDP, 2004).

The above definition confirms that corruption prevention is the essential element of good governance. Prevention of corruption therefore requires coordinated efforts by all sectors of society. All sectors have a responsibility to ensure that preventive measures are introduced in the codes of ethics, laws, rules and policies. All sectors of our society must take cognizance of the fact that what destroys good governance among others are: lack of implementation of positive policies and ignorance of sound economic principles, arbitrary decisions or actions that go beyond the powers conferred by laws or regulations, negligence in the execution of public functions that in some instances results in the misuse of public resources, delays in implementing decisions that benefit the public, greed (those who have want to unlawfully manipulate the systems under their control to enrich themselves), lack of adequate training of public officials in ethics and lack of culture of transparency and accountability.



It is appropriate that I remind the Namibian people that Mahatma Gandhi once said the following:

“The things that will destroy us are: politics without principle; pleasure without conscience; wealth without work; knowledge without character; business without morality.”

His expression, no doubt, stresses the importance of values and integrity in building a sustainable and prosperous social system. Corruption destroys national, economic, social and political progress. Corruption reduces fair competition and efficiency whereby honest companies are disadvantaged. Corruption results in the lowering of efficiency, effectiveness, productivity, and fair competition. Through corruption public spending is increased and economic innovation is discouraged. Corruption results in mismanagement of public investment projects and loss of millions of public funds. Everyone is a potential victim of corruption and therefore everyone must take part in the prevention of corruption.

During the year under review, the ACC continued with its activities as mandated by the Act. Sensitisation workshops were held for members of the society at different levels. Particularly the youth who are the future leaders of Namibia remains the target of ACC for anti-corruption awareness campaigns. The ACC in collaboration with the National Institute for Educational Development (NIED) started the process of developing an Anti-Corruption Life Skills Study Manual for Grades 5 to 12 teachers. With this manual, anti-corruption topics will be better taught in schools. ACC officials from the Directorate of Public Education and Corruption Prevention during the period under review visited many schools in all thirteen regions of Namibia to sensitise learners and teachers alike on the evil and dangers of corruption. Anti-corruption materials were translated in Braille format for the benefit of Namibians with sight impairment but can read the Braille format. Workshops were as well held for public officials of either Ministries or Local or Regional Authorities.

In order to fully consolidate the national integrity system and prevent corruption, there is need for the establishment of Integrity Committees or Units within Offices, Ministries and Agencies. The Integrity Committees will serve as focal points as far as the prevention of corruption and other forms of unethical behavior in O/M/As is concerned. The Integrity Committees will spearhead and facilitate the process of preventing corruption in their respective O/M/As and where appropriate report to law enforcement agencies for criminal investigation. The committees will also be responsible for ensuring that the Codes of Conduct/Ethics are understood by officials at O/M/As level. It is not expected that such committees or units will operate on an extra budgetary costs to the O/M/As. They can be established from the existing staff.

Finally, it is necessary to remind the Namibian people that Vision 2030 will only be achieved if all sectors of society make their contributions towards that achievement. Prevention of corruption no doubt is a precondition to high and sustainable economic growth, employment creation and increased income equality which goals are focused on in the NDP4. Hence, it is everyone's responsibility to contribute to the realization of these goals.

I thank all members of the public who have cooperated and continue to cooperate with the ACC. The ACC's success depends on the extent to which members of the public continue to provide information and participate in awareness campaigns against corruption.

We all need to team up and confront corruption head-on. Corruption is not inevitable. Together, we can eliminate corruption.

## BACKGROUND

### THE COMMISSION

The Anti-Corruption Commission is established by the Anti-Corruption Act, 2003 (Act No. 8 of 2003) as an independent and impartial body. 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:

- Directorate Investigation and Prosecution
- Directorate Public Education and Corruption Prevention
- 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:

- 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.

- Education function

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

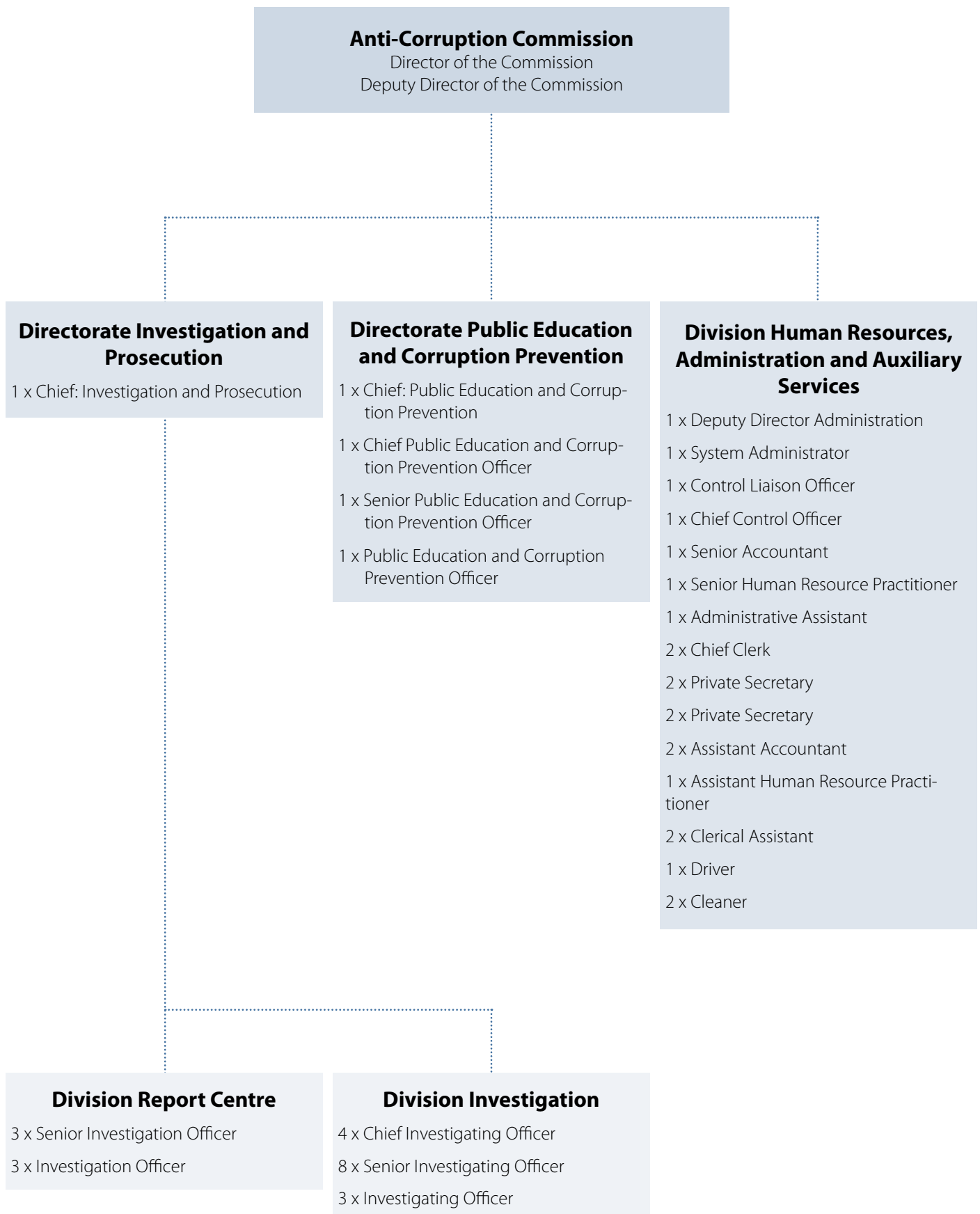
- Prevention function

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.

### CONSTITUTIONAL ANTI-CORRUPTION MEASURES

The Government confirmed its commitment to root out corruption by amending the Namibian Constitution to provide for anti-corruption measures. The amendment came into effect on 7 May 2010.

## ORGANISATIONAL STRUCTURE







Mr Nelius Becker

Head: Investigation and prosecution

## CORE RESPONSIBILITIES

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

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

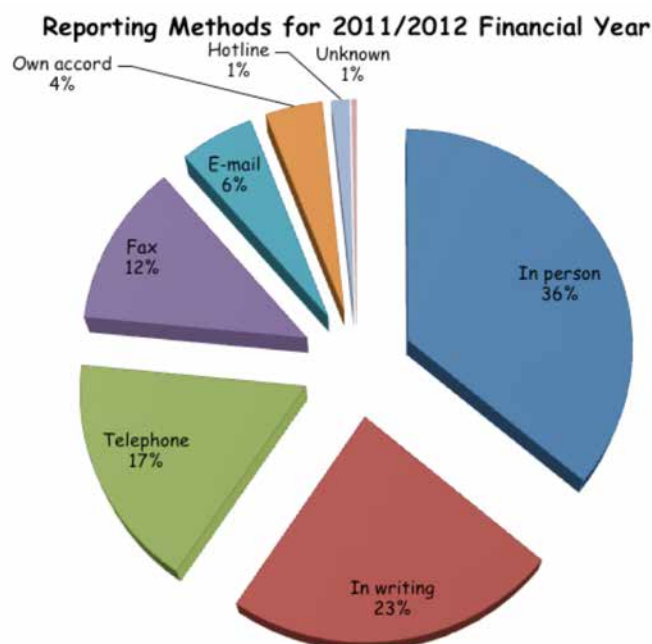
This Directorate comprises two divisions, namely the Division Report Centre and the Division Investigation.

## STATISTICAL TRENDS

### Modes of reporting corrupt practices during the 2011/12 financial year.

Corrupt practices are reported to the ACC's Report Centre in person, or in writing via post, e-mail or facsimile, or telephonically. The following figure below shows that most whistleblowers prefer to report corruption to the ACC in person whilst the least popular mode of reporting appears to be via e-mail. The information so received by the ACC is analysed and if the conduct reported on falls within the ambit of the definition of a corrupt practice contained in Chapter 4 of the Anti-Corruption Act, 2003, the said division conducts an investigation. In instances where there appears to be no corrupt practice the information is forwarded to other appropriate authorities for action or the informant is advised on what action to take. The ACC, if it is satisfied that the allegations merits investigation, shall first carry out investigation in order to be in a better position to decide whether to refer the matter to the relevant authority for further action or to recommend to the Prosecutor-General for prosecution.

The figure below shows the modes used to report cases to the ACC for the period under review. As depicted in the figure, 36% and 23% of cases were reported in person and in writing respectively. Compared to the 2010/11 financial year, 28% of the cases were reported in person whilst 39% were reported in writing. This could be attributed to



**Figure1:** Modes of reporting corrupt practice to the ACC during 2011/12

the availability of a regional office in Oshakati, giving the members of the public access to the ACC services. It could also mean that members of the public are becoming comfortable to approach the office in person rather than sending complaints in writing.

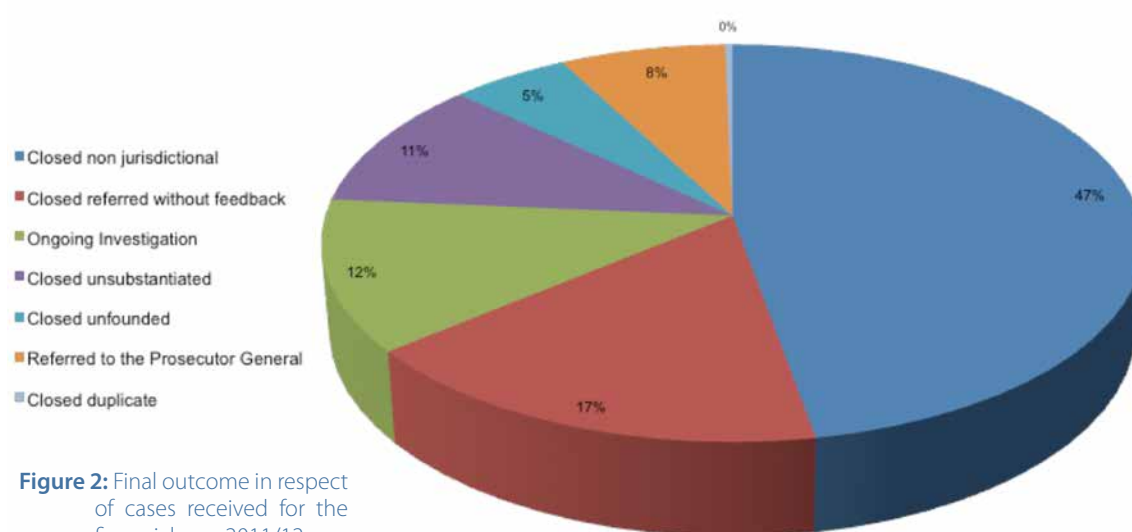
## FINAL OUTCOME IN RESPECT OF REPORTS RECEIVED FOR THE FINANCIAL YEAR 2011/12

Outcome	No. of Cases
Closed non jurisdictional	291
Closed referred without feedback	104
Ongoing Investigation	76
Closed unsubstantiated	65
Closed unfounded	33
Referred to the PG	46
Closed duplicate	2
<b>Total</b>	<b>617</b>

**Table 1:** Final outcome in respect of cases received for the financial year 2011/12

A total number of 617 cases were received during the year 2011/12. The above cases were dealt with as follows:

- Forty six (46) cases were referred to the Prosecutor General with recommendation for prosecution
- Two hundred ninety one (291), after thoroughly analysis were found to be not falling under the mandate of the ACC and were either referred to the relevant authorities or whistleblowers were advised to lay criminal charges with the Namibian Police.
- One hundred and four (104) preliminary investigations were carried out whereafter the reports with information gathered were referred to the relevant authorities with directives to deal with the matters administratively.
- Seventy six (76) cases are under investigation by the ACC at the time of this report
- Sixty five (65) cases were investigated and after possible evidence was gathered, allegations could not be substantiated with evidence. ACC therefore closed the files.
- Thirty three (33) cases were unfounded, that is after investigation was carried out, no single evidence was found to support the allegations.
- Two cases were closed as duplicates. This means there were already similar reports received by the ACC.



**Figure 2:** Final outcome in respect of cases received for the financial year 2011/12

The figure above shows that of the cases received during the period under review –

- 47% were closed because they were not related to the mandate of the ACC
- 17% were closed after referral to the relevant authorities with directives to deal with the matters administratively
- 11% were closed because allegations could not be substantiated during the investigation
- 8% were still being investigated

- 7% were referred to the Prosecutor General.
- 5% were closed because they were unfounded.

The figure below shows the number of report received by the ACC and those referred to the Prosecutor-General between the financial years 2008/09 to 2011/12.

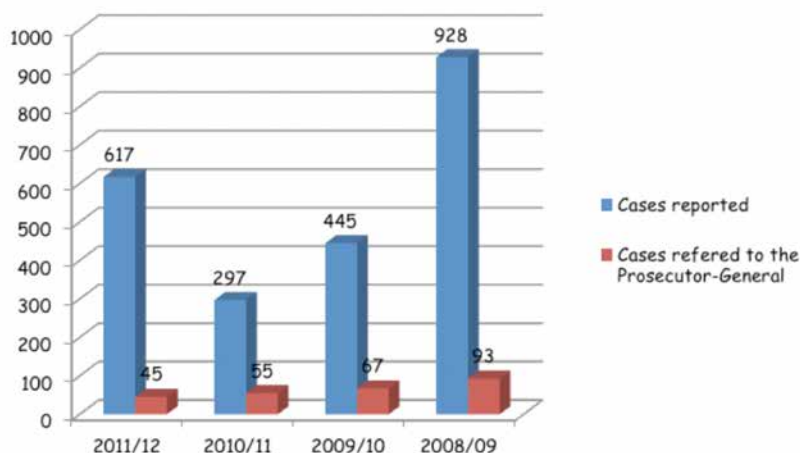


Figure 3: Cases reported and referred to the PG 2008/09 to 2011/12

## GEOGRAPHICAL BREAKDOWN OF REPORT RECEIVED FOR THE 2011/12

The figure below shows the geographical breakdown of alleged corrupt practices received by the ACC during the period under review. As indicated in the figure below, the five regions relating to which the most reports were received during the period under review are Khomas, Oshana, Erongo, Otjozondjupa and Karas.

### Geographical breakdown of reports of alleged corrupt practices received during 2011/12

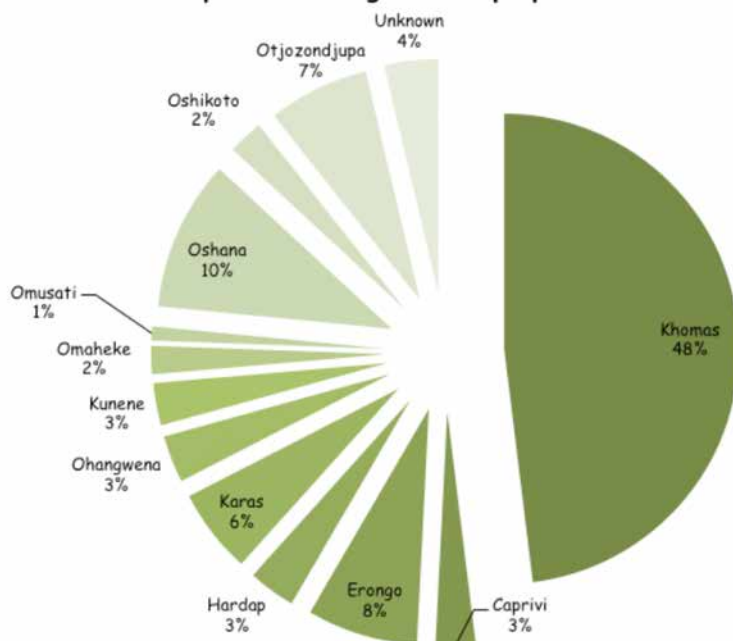
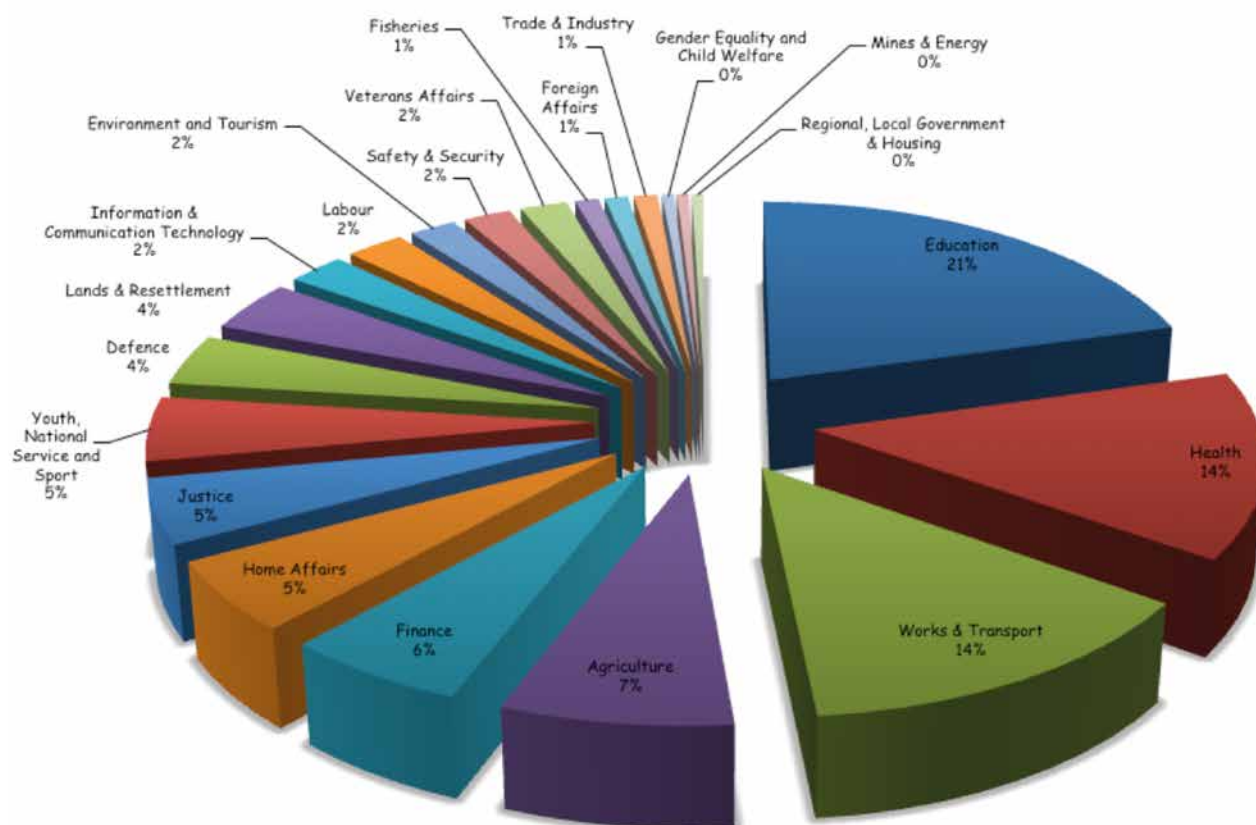


Figure 4: Breakdown of reports of alleged corrupt practices by region

## BREAKDOWN OF REPORT RECEIVED IN RESPECT OF THE MINISTRIES FOR THE FINANCIAL YEAR 2011/12

The figure below shows that during the period under review the five government ministries in respect of which the most reports of alleged corrupt practices were received by the ACC in order from the highest to the lowest are the Ministry of Education, Ministry of Health and Ministry of Work and Transport, Ministry of Agriculture and Ministry of Finance.



**Figure 5:** Breakdown of reports of alleged corrupt practice received in respect of ministries of 2011/12



**Ms Namupa Nengola**

Head: public Education and  
Corruption Prevention

### CORE RESPONSIBILITIES

The Directorate of Public Education and Corruption Prevention core responsibilities include –

- to educate the public on the evils of corruption and foster ethical values. This is done through training and integrity related workshops that are tailor-made to meet the needs of target groups;
- 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 of corruption.

## RAISING PUBLIC AWARENESS ON THE RISKS OF CORRUPTION

### OUTREACH PROGRAMME WITH THE CHURCH

#### Oshana Region - 17 August 2011

About 40 Church leaders attended an ACC seminar on Corruption in Ongwediva, Oshana Region. The purpose of the seminar was to sensitizing the church leaders on matters related to corruption as well as to strengthen the partnership between the church leaders and the ACC.

#### Karas Region - 19 May 2011



The ACC in partnership with the Namibia Institute for Democracy (NID) organised a Church Leaders Seminar at Keetmanshoop, in Karas Region to build effective partnership among Church leaders in fighting corruption.



## OUTREACH PROGRAMME WITH THE YOUTH

### Oshana Region - 13 March 2012

The youth leaders' seminar took place in Oshakati in Oshana Region. The purpose of the seminar was to educate the youth leaders about the dangers and evil of corruption, the importance of fighting against corruption at any level of leadership, enlist their support in facilitating positive behavioural and attitudinal changes and promote good governance skills among them as future leaders of this country.



### Oshana Region - 27 Jan 2012

The ACC handed over the Anti-Corruption Act and the Frequently Asked Questions Booklets to Eluwa Special School in Ongwediva in Oshana Region and the School of the Visually Impaired in Windhoek in Khomas Region on 27 January 2012 and 9 March 2012 respectively. The materials were translated into Braille to ensure that learners and people with visual impairment get access to information regarding the fight against corruption.



*Depicted the ACC Director handing over the material in Braille to the Hon. Clemence Kashuupulwa, the Governor of Oshana Region.*



*Depicted are the learners from Eluwa Special School in Ongwediva during the hand-over ceremony of the ACC booklets translated in Braille.*



## **Khomas Region - 9 March 2012**



*Depicted are the learners from the School of the Visual Impaired, in Windhoek, performing a song during the hand-over ceremony of the ACC booklets translated in Braille.*

## **Karas Region - 15 February 2012**



The ACC officials gave presentation on corruption to approximately 400 learners of Suiderlig High School in Keetmanshoop, in Karas Region. An interactive question and answer session followed the presentation, where learners had a chance to discuss and ask questions.

The ACC organised a seminar for the Learners Representative Council (LRC) members of the following schools; Suiderlig High School, P K De Villiers High School and JA Nel Senior Secondary School. As student leaders, the LRC members were sensitised about the consequences of corruption and its effect on the future of our contry. They were also engaged in an interactive discussion regarding their role as youth leaders in the fight against corruption in their community and schools.



### **Hardap Region - 16 February 2012**

The ACC, in collaboration with the Ministry of Youth in Hardap Region, organized a Youth Integrity Seminar at Kai//Ganaxab Youth Skills Training Center, approximately 40km outside Matiental in Hardap Region.



*Depicted are the participants in the ACC Youth Integrity Seminar at Kai//Ganaxab Youth Skills Center.*

### **Hardap Region - 20 May 2011**

The ACC in collaboration with the Maltahohe Village Council organised a Youth Integrity Seminar in Maltahohe to educate, mostly the out-of-school youth about corruption and its dangers to society. Depicted below are the participants at the Maltahohe seminar.



### **Hardap Region - 11 May 2011**

The ACC organised a sensitisation seminar on corruption for Student Representative Council (SRC) members from Polytechnic of Namibia, University of Namibia and the International University of Management (IUM). The purpose of the seminar was to educate the SRC members about the importance of fighting against corruption at any level of leadership. In addition, the ACC wanted to engage them as youth leaders to solicit their support in facilitating positive behavioural changes among them as future country leaders.





### **Omusati Region - 12 July 2011**

400 learners, teachers and staff members at Etalaleko Secondary School were sensitised about what constitutes corruption and consequences of corruption to the economy.



### **Omusati Region - 12 July 2011**

600 learners, teachers and staff members at David Sheehama Secondary School were sensitised on what constitutes corruption and consequences of corruption to the economy.



## **OUTREACH PROGRAMME WITH THE GOVERNMENT OFFICIALS**

### **Otjozondjupa Region - August 2011**

Over 200 Public Officials attended an ACC seminar on Corruption at Otjiwarongo. The workshop was organized in collaboration with the office of the Governor of Otjozondjupa Region to educate the public officials on the dangerous effect of corruption



### **Otjozondjupa Region - 9 August 2011**

A presentation on corruption was given to 25 students at the Osona Military School in Okahandja.

### **Omusati Region - 21 July 2011**

Officials representing various ministries, NGO's Community Development Projects and Outapi Town Council attended an information sharing seminar



### **Oshikoto Region - 24 August 2011**

The ACC organised a seminar for senior public officials at Okashana, in Oshikoto Region. The purpose of the seminar was to sensitise the participants on the role of public officials in fighting corruption. The ACC Director addressed the seminar, which was attended by Regional Councillors and senior government officials from different Ministries in Oshikoto region. Other speakers were Mr Lameck Kafidi, Director of Education in Oshikoto Region on "The role of the Education Sector in the fight against corruption" and Mr Sacky Tangi Kathindi, Chairperson of NCCI Satellite Branch Omuthiya on "The role of Business Sector in curbing corruption in Namibia"

## **OUTREACH PROGRAMME WITH THE COMMUNITY**

In an attempt to reach maximum members of the public especially those in the rural areas, the ACC through its community outreach programme visited various shopping places, settlement and villages to educate the public on the dangerous effects of corruption. This platform gave members of the public an opportunity to interact with ACC officials and ask questions. The ACC officials also disseminated information and printed material to the members of the public. The outreach programme enables the ACC to reach about 2350 people.

<b>Region</b>	<b>Place</b>	<b>Date</b>
Oshana Region	- Game Centre in Oshakati	22 July 2011
	- Ondangwa Shopping Centre	19 August 2011
	- Eheke Settlement	31 October 2011
Ohangwena Region	- Oshikango	20 September 2011
	- Helao Nafidi Town	21 September 2011
	- Eenhana Town	29 September 2011
	- Okongo Village	30 September 2011
	- Oshikango	22 November 2011
Oshikoto Region	- Omuthiya Town	20 October 2011
Omusati Region	- Oshikuku Settlement	21 November 2011
	- Okalongo Settlement	28 November 2011

## REPRESENTATION AT TRADE FAIRS AND SHOWS

During the period under review, the ACC was represented at the Okakarara Trade Fair, Ongwediva Trade Fair and Windhoek Show. Various group and individual discussions were held to sensitise the public and also to listen to their opinion and answer their questions. Below are some of the visitors at the ACC stands at the Okakarara Trade Fair, Ongwediva Trade Fair and Windhoek Show.



## TRANSLATION OF ACC BROCHURES INTO OSHIWAMBO

Various information brochures as well as the Frequently Asked Questions (FAQ) booklet were translated into Oshiwambo. The main reason for the activity was to make sure that the public can get access to the information in the language which they can understand well. The translated documents were distributed at Ongwediva Trade Fair, where most of the Oshiwambo speakers are located. Translation of ACC information materials into local languages is a continuous process.





## DIVISION HUMAN RESOURCES, ADMINISTRATION AND AUXILIARY SERVICES



**Mr Andreas Nangombe**

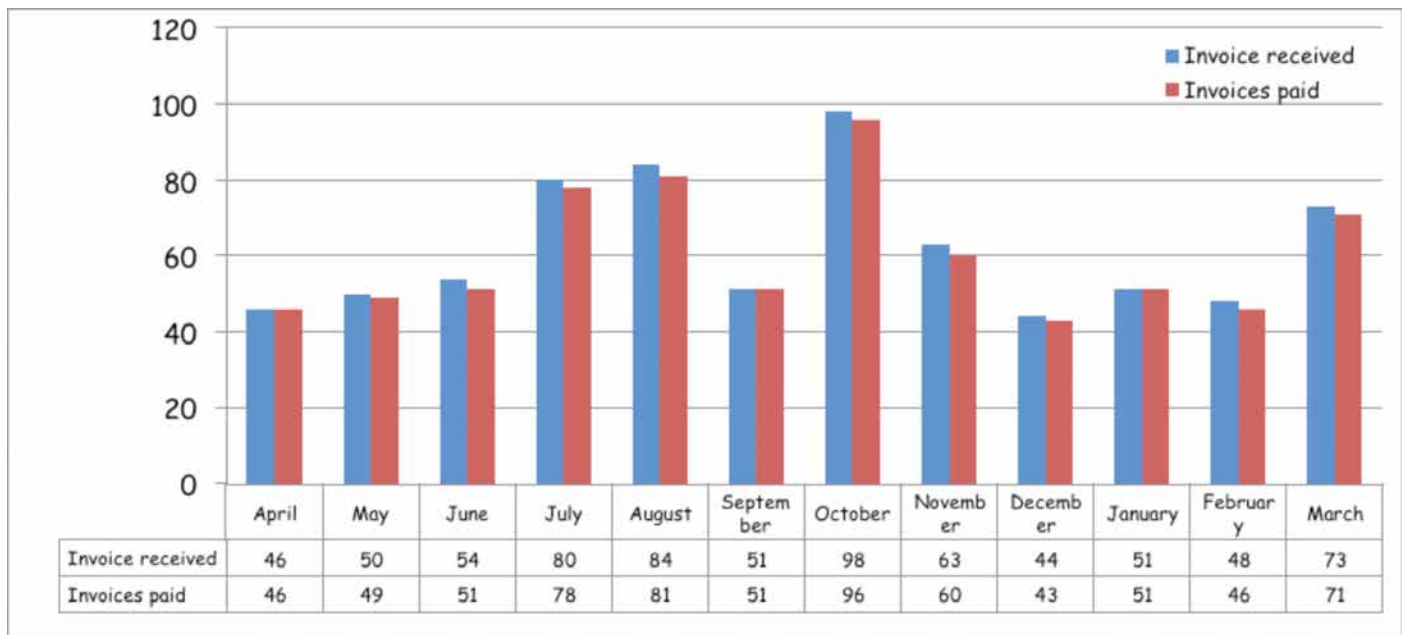
Head: Human Resources,  
Administration and Auxiliary Services

### CORE RESPONSIBILITIES

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

### Finance services

The ACC through internal control system facilitated prompt payment to its suppliers. During the period under review the ACC received and paid its suppliers as follows:



**Figure 6:** Invoices received and invoices paid to supplier in the financial year 2011/12

## HUMAN RESOURCE SERVICES

### Recruitment

During the period under review the ACC recruited eight additional staff members

### Staff Development

Type of Training	No. of staff members trained
Middle Management Programme – NIPAM Windhoek	3
Human Resources Planning Workshop Programme, Windhoek, 15 – 16 June 2011	1
Electronic Document Record Management System, Windhoek, 2 August 2011	1
Fraud and Corruption Training, Windhoek, 29 August – 1 September 2011	2
Accounting and Auditing Conference, Windhoek, 7 – 9 September 2011	1



## ACC HEADQUARTERS

In order to improve service delivery, the ACC is busy with the construction of its new ACC Headquarters in Mont Blanc Street, Windhoek East Constituency. The new office will have tailor-made facilities that will provide a favourable environment to both the ACC's internal and external stakeholders. The construction is expected to be completed in 2013. The pictures below show the construction site of the new ACC Headquarters.



Two ACC officials, one from the Directorate of Public Education and Corruption Prevention and another from Directorate of Investigation and Prosecution attended a two weeks training course in Good Governance for 21<sup>st</sup> Centuries African Countries Training Course in Singapore in September 2011. The course that was funded by the government of Singapore was relevant and has enriched the staff members' professional knowledge and skills on Good Governance.

Depicted are participants at the Governance Training Course in Singapore. Amongst them are ACC officials, Mrs Helena litula and Mr Oberty Inambao.



## NATIONAL AND INTERNATIONAL SUPPORT AND ENGAGEMENTS

### SOUTHERN AFRICA FORUM AGAINST CORRUPTION (SAFAC) 9<sup>TH</sup> ANNUAL GENERAL MEETING

The ACC hosted the 9<sup>th</sup> Southern Africa Forum Against Corruption (SAFAC) Annual General Meeting on 7 – 9 November 2011. The meeting elected ACC Director, Paulus K Noa to be the SAFAC Chairperson. He took over from Dr Edward Hoseah, the Director General of the Prevention and Combating of Corruption Bureau of Tanzania.



Depicted above are the delegates at the SAFAC Annual General Meeting in Windhoek, Namibia



His Excellency President Hifikepunye Pohamba (second from left) officially opened the SAFAC AGM. With him in the front row are: Madam Julie Onum, Chairperson, AU Advisory Board on Corruption, Mr Paulus Noa, ACC Director, Dr Edward Hoseah, and Mr Jacob Diko Mukete, Manager of the Economic and Financial Reforms Division, African Development Bank

### COMMEMORATION OF THE INTERNATIONAL ANTI-CORRUPTION DAY



Namibia joined the rest of the world to commemorate the International Anti-Corruption Day on the 9<sup>th</sup> December. The ACC launched the Urban Corruption Perception Survey Report to coincide with the day. The survey was conducted mainly to assess the public's understanding of what constitute corruption, analyse how the public respond to corrupt practices, and assess the effectiveness of the work of the ACC. The printing of the survey report was made possible with the funding from the United Nations Development Programme (UNDP)

Depicted are ACC Director, Mr Paulus Noa and Mr Neil Boyer UNDP Namibia Acting Resident Representative.



## ANTI-CORRUPTION DEBATING COMPETITION

The ACC conducted the Anti-Corruption Debating Competition for the secondary schools in Khomas Region. The aim of the debate was to encourage learners to debate about issues related to Corruption. The debate increases the dialogue on corruption between the learners and could increase awareness on the dangerous effects of corruption among the youth. Ten Secondary Schools in Khomas Region, participated in the competition and Khomas High School scooped the first prize. The debating competition was made possible with the generous sponsorship by First National Bank (FNB).



Khomas High School Debating Team with ACC Director, Mr Paulus Noa (middle), Deputy Director, Adv Erna van der Merwe and Rev Jefta Ihambo.



Khomas High School Debating team with Head of FNB Retail Banking, Ms Esther Kali



Depicted is the Windhoek Technical High School debating team with ACC Director, Mr Paulus Noa (middle).

## **SIGNING OF MEMORANDUM OF UNDERSTANDING (MOU) WITH ROADS ADMINISTRATION FUND**

The ACC signed a MOU with the Roads Administration Fund on the 3rd of August 2011. The aim of the agreement is to cement cooperation, support and assistance between the two institutions. The agreement will, in addition enable to two institutions to exchange and share information relating to investigative services and to conduct joint investigation and public awareness campaigns where appropriate. Since the signing of the memorandum of understanding, cooperation between the two institutions has been strengthened and investigation activities especially with regard to issuance of unauthorised driving licenses have been intensified.

## **UN CONFERENCE OF THE STATE PARTIES**

The Director of ACC and Mr Petros Kangameni, ACC Investigating Officer were part of the Namibian delegation led by the Deputy Minister of Justice, Hon. Tommy Nambahu to the Conference of States Parties. The Conference was held in Marrakesh, Morocco from 24 – 28 October 2011. The main agenda of the Conference was to discuss issues regarding review of the implementation of the UNCAC, asset recovery, prevention and technical assistance.

## **ANTI-CORRUPTION CONFERENCE**

The Director ACC attended the G5's first Anti-Corruption Conference held in Cape Town, South Africa. The objective was to discuss the compliance strategies authorities in Sub-Saharan Africa have to put in place to prevent, detect, confiscate the proceeds of corruption and punish corrupt officials.

The ACC Deputy Director, Adv Erna van der Merwe and Head of Public Education and Corruption Prevention, Ms Namupa Nengola attended a Anti-Corruption Conference, held in Nairobi, Kenya on 30 June to 1 July 2011. The conference, which was organised under the theme: "Fighting Corruption in Times of Reform" was made possible with funding from Hanns Seidel Foundation. The conference highlighted the role of various stakeholders, e.g. religious institutions, the media as well as how Information Communication Technology (ICT) can assist in fighting corruption.

## **ANTI-CORRUPTION AUTHORITIES CONFERENCE**

The ACC Director attended Heads of the Africa Anti-Corruption Authorities' Conference. The Conference took place in Bujumbura, Burundi on 20 – 22 June 2011. The purpose of the Conference was to discuss and come up with modalities of preventing and combating corruption on the African continent specifically by strengthening dialogue and mutual cooperation between African Anti-Corruption Authorities/Agencies. In addition, the conference was to discuss the possibility of forming the Africa Association of Anti-Corruption Authorities. The Conference was sponsored by the Africa Development Bank.

## **IMPLEMENTATION REVIEW OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION**

The ACC Director attended the UNCAC review meeting which took place in Vienna, Austria on 30 May to 4 July 2011. This was the second meeting of the Implementation Review Group of the UNCAC. The important feature of the meeting was the Drawing of Lots for review of the countries during the second year (2011-2012) of review cycle.

## **COMMONWEALTH REGIONAL CONFERENCE FOR HEADS OF THE ANTI-CORRUPTION AGENCIES IN AFRICA**

The ACC Director attended the Commonwealth Regional Conference for Heads of the Anti-Corruption Agencies in Africa which took place in Gaborone, Botswana on 23 – 25 May. The Conference was organised and sponsored by the Commonwealth Secretariat. The aim of the Conference was to establish a regional network for Heads of anti-corruption agencies, and to discuss and examine the complexities of the role of anti-corruption agencies.

## CONCLUSION AND RECOMMENDATION

Corruption presents a serious threat to the basic principles and values of a democratic society. Corruption destroys good governance as it weakens sectoral and institutional integrity. Corruption is a crime against social justice. It results in the majority of citizens being hurt without discrimination. Corruption is a gateway to serious crimes such as money laundering, tax evasion and illicit enrichment. People ultimately become victims of corruption either directly or indirectly because essential services like potable water, health and education cannot adequately being provided to them.

Generally, some of the causes or contributors of corruption are:

- Political patronage and influence where appointments are not made on merits but merely to maintain political representation irrespective whether the person appointed in a specific portfolio possesses the skills and knowledge to initiate policies that enhance social and economic development. In this situation the appointees become liabilities to taxpayers rather than assets. Meritocracy must be central to any appointment in political and administrative portfolios.
- Lack of implementation of positive policies and ignorance of sound economic principles. This is particularly the case when priority and concentration is not paid to essential national programmes that have a potential to increase economic growth and improve the living conditions of citizens. Poor planning and administrative leadership is identified in many jurisdictions as the cause of economic plunder.
- Failure to adhere to professional ethics and standards of transparency and accountability. No doubt, effective measures to promote transparency and accountability in both private and public sector prevent conflict of interest, deter the bribery of public officials and ensure the ultimate effective investigation and prosecution of bribe givers and recipients as well as those involving themselves in all forms of corrupt practices. All institutions must put effective measures in place that make corruption high-risk low-gain undertaking. Corruption raises serious moral and political concerns. It undermines good governance and sustainable economic development.
- Negligence in the execution of official public functions that results in the misuse of direly needed public resources. Millions of public funds are lost as a result of poor execution and mismanagement of public funds. This may be attributed to the appointment of wrong Management or the Boards that oversee the management of affairs in such public institutions. Institutions must put effective detection mechanisms in place which must include the disclosure of income and assets (Asset Declaration) as well as mechanisms that deals with conflict of interest. ACC has come across some local authorities and private institutions which have not incorporated "conflict of interest" in their policies or codes of conduct. The loophole makes it difficult to take action against the officials when they take decisions that are in conflict of interest. It must be born in mind that corruption is a crime committed in darkness, therefore law enforcement agencies rely on a number of detection mechanisms put in place.
- Failure to implement recommendations of watchdog institutions. When watchdog institutions be those established by laws or civil society organisations make recommendations aimed at strengthening transparency and accountability in the management of public affairs, such recommendations must be seriously considered and when appropriate implemented. Failure to consider and implement recommendations creates a culture of impunity. Corruption affects us all and good governance is about collective leadership.

There are many other causes such as greed, lack of checks and balances on discretionary power, poverty and unemployment, tolerance and acceptance of corrupt behaviour (corrupts are worshipped and viewed as heroes), lack of disciplinary action against public officials facing corruption charges (non-action by appointing authorities creates an impression in the mind of ordinary citizens that the appointing authorities approve of corrupt practices), delays

caused by the judiciary in the dispensation of justice. Due to delays in the finalization of corruption cases, some members of the public may develop a perception that corruption pays. This may be so, because by the time the court disposes of the case, members of the public have lost interest and do no longer bother what happens to the suspect. They may lose interest to report corruption cases in future.

### **Regional and International Treaties**

Namibia has signed and ratified regional and international treaties. Among these treaties are the SADC Protocol against Corruption, African Union Convention on Preventing and Combating Corruption, United Nations Convention against Corruption and the United Nations Convention against Transnational Organised Crime. The mentioned treaties do not only provide for the investigation and punishment of the convicted public officials, but they as well provide for the freezing, seizure and confiscation of unlawfully acquired assets or proceeds of corruption as well as illicit proceeds acquired through money laundering. In this regard the Prevention of Organised Crime Act plays a crucial role as it criminalises money laundering and provide for the recovery of the proceeds of unlawful activities.

Money laundering particularly is a serious crime that can plunder the entire national economy, thus, it is an obligation under international treaties that countries should put in place legal mechanisms that provide for the freezing, seizure and confiscation of illegal assets. In this regard, laws make provisions for both civil and criminal recovery procedures. Especially Article 52 of the United Nations Convention against Corruption provides for the establishment of prevention and detection measures, including financial disclosure systems and the sharing of information on suspicious transactions.

In order for Namibia to maintain her integrity in the eyes of the international community, Namibia must effectively comply with the international treaties and obligation. Namibia must have effective anti-corruption and prevention of organised crime legal frameworks in place. ACC applauds our Government for having enacted these laws. Namibia must give her fullest international cooperation in the fight against corruption, money laundering and other recognized unlawful activities.

The authorities must also make it a priority that effective trainings in the fields of investigation of corruption, money laundering as well as asset forfeiture proceedings are provided for. The Asset Forfeiture Unit within the Office of the Prosecutor General is equally a crucial Unit as it deals with asset forfeiture civil litigations to ensure that suspects do not benefit from the unlawfully obtained assets. Indeed, Law Enforcement Agencies play a central role because investigations must first be carried out to identify the proceeds of crime. Adequate resources must therefore be provided to ensure effective trainings of officials of these institutions. This is an investment that will bear fruit to the nation.

### **Public Procurement Procedure**

Corruption especially in the form of bribery may be perpetrated during procurement process, that is, during product design, advertising, invitation to bid, pre-qualification, bid evaluation, post qualification, contract award and contract implementation. At each of the aforesaid stage there are opportunities for corruption. The ultimate victims of corruption committed in public procurements are innocent members of the public who are supposed to benefit from the service rendered. Taxpayers suffer a double burden as in most cases substandard work costs them double. Development in general does not make progress.

In order to curb corruption in this area, there is need for adequate safeguards to be put in place. Public procurement should be done through a transparent competitive bidding. The proposed public procurement law must be applauded as it does not only promote competition and foster participation in public procurement proceedings, but it also provides for fair and equitable treatment of bidders, integrity, fairness and accountability. The Central Public



Procurement Board will be composed of relevant persons from all sectors of development. Chances of tender award manipulations will be reduced.

I need to once again remind the nation that corruption is not only committed when a person directly and corruptly benefits from gratification but also when a person indirectly causes another person to benefit from gratification. Gratification is broadly defined and it includes:

- money or any gift, loan, fee, reward, commission, valuable security or property or interest in property of any description, whether movable or immovable;
- any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity;
- any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- any valuable consideration or benefit of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- any forbearance to demand any money or money's worth or valuable thing;
- any service or favour, including protection from any penalty or disability incurred or apprehend or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty;
- any right or privilege;
- any aid, vote, consent or influence, or any pretended aid, vote, consent or influence; and
- any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs;

## **Business Integrity**

As I pointed out in previous other reports, the fight against corruption cannot be left to Government alone because it is not the problem of public sector alone. Sometimes there are officials in the private sector who corruptly offer gratification to public officials to secure the awarding of contracts to their companies. As such, corruption takes two to tango. Therefore according to the Anti-Corruption Act, a person commits a corrupt offence if he/she directly or indirectly gives or offers to give to any person any gratification as an inducement or a reward for, or otherwise on account of, the withdrawal of, or the refraining from the making of, any tender for a contract invited by any public body, private organisation, corporate body or other organisation or institution to perform any work, provide any service, supply any article, material or substance or for doing anything or solicits or accepts or agrees to accept for himself or herself or any other person any gratification as an inducement or a reward for or otherwise on account of the withdrawal of, or the refraining from the making of, a tender for a contract.

At times the business community may commit corruption by paying bribes to public officials in return for the destruction of evidence of outstanding tax payments to the Receiver of Revenue (Tax Evasion), bribery through intermediaries who are used as "agents" to transmit offer, promise, or gift to public officials. Some of these "agents" disguise themselves as "consultants" just to cover their dirty deals of illicit financial outflows.

Private sector must promote business integrity and prevent corruption. Effective measures to promote private sector transparency and accountability go a long way in preventing conflict of interest and deter bribery of public officials. It is an obligation under Article 7 of UNCAC to put in position effective anti-corruption mechanisms. Similarly, the International Chamber of Commerce has developed effective tools as guideline principles for the development of

codes of ethics that promote transparency and prohibit bribery, be it direct or indirect through the use of “agents” or “intermediaries”.

Namibian people are disgusted to read media reports about some state-owned enterprises that register deficits that ran into millions of dollars. These enterprises have become liabilities and are bleeding the national fund, because often than not they must be bailed out. The situation might be attributed to the wrong handpicking of captains who head these enterprises or it might be aggravated by the incompetence of the boards that ought to oversee the management of these state-owned enterprises.

Principles of corporate governance must be embodied in the management of public institutions. Board members or trustees must not fail to fulfill their fiduciary duties. Lining of pockets should not be the priority for serving on the boards. Otherwise, the courts of law are humbly called upon to interpret the laws in a correct global perspective to ensure that board directors, legal persons and unincorporated business entities that engage in corrupt practices are as well held accountable for the disappearances of public resources.

Legal entities, be they public or private must be held liable for corruption, money laundering, illicit financial outflows and all related offences when they are committed with the involvement or negligence of directors, managers, trustees or any others who occupy management positions. This is the better way to guarantee transparency and accountability in private companies and state-owned companies. Prevention of corruption requires a comprehensive multi-faceted approach.

## **Poverty Alleviation**

It was submitted in previous annual reports that ACC was inundated with many complaints, particularly from the youth, relating to the issue of unemployment and poverty alleviation. Many of these youth are of the perceived view that the woeful state of unemployment rate in the country and the predicaments they find themselves in are caused by mismanagement of resources and corruption.

Previously the complaint was based on the argument that the country is endowed with vast mineral resources, yet the majority of citizens are living in abject poverty, roaming the streets with no hope for employment opportunities and guaranteed future for them. The country’s vast uranium minerals which are in the hands of pyramids of foreign companies “with no benefits for the youth or the nation as such” were singled out. Another group of the society has added their voice on the dissatisfaction, complaining about the scarcity of residential land to build affordable houses. The complainants further said, “Even where the land is available in municipal areas, prices are so exorbitant to an extent that ordinary persons with low income cannot afford to own houses”. The situation forces them to live in shacks or flats with their families.

The frustration expressed by some members of our society, be they youth or adult citizens is a matter of grave concern that must be tackled by all sectors, government, private sector, civil society and all other development partners. Extreme levels of income inequality, unemployment and poverty have a potential to proliferate an explosive situation. Those who are employed, yet they cannot afford land to build houses due to exorbitant land prices in local authorities areas may as well be overwhelmed by frustration one day.

The mining sector is expected first and foremost to benefit the Namibian people, particularly in alleviating poverty among the youth. Namibia being a mining country, perhaps it is not a bad idea that Namibia becomes a member of Extractive Industries Transparency Initiative (EITI), a global level initiative which has been endorsed by the World Bank. Under the initiative, all the payments made by the oil, gas, and mining companies to the governments have to be published. Government is required to publish revenue received and mining business is not conducted in se-

crecy. Many countries in Africa and elsewhere with extractive industries are members of EITI and some have already passed legislations providing for the due process and transparency in the payments made by the extractive industry companies to the Government. The initiative eliminates all forms of corrupt practices in the determination, payments, receipts and posting of revenues. As it is pointed out in one of the EITI principles, the prudent use of natural resource wealth should be an important for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.

Developing countries, particularly on the African continent, have had enough of economic exploitation by way of illicit capital flight. Some multinational companies have used different illicit strategies like manipulating loopholes in taxation laws or mispricing tactics to siphon out of developing countries untaxed profits of millions of dollars. This is attributed to lack of transparency in the manner multinational companies do business under the pretext of investment. Lack of enforcement of tight tax laws and regulations that compel multinational companies to announce their gross profit to the public have left revenue funds of developing countries depleted. Almost every African State is endowed with rich minerals, yet the majority of the total African population lives below the poverty line of US\$ 2 per day. Mineral resources in any given State belong to the nationals, as such must in the first place benefit the nationals to lift them out of poverty.

The other strategy employed by multinational companies to illicitly siphon profits is when they come to developing countries under the guise of foreign direct investment. They demand to benefit from favourable investment conditions such as tax exemption for a certain agreed grace period. Soon after the “free lunch” period is over, they close their operations; meanwhile they have siphoned millions of pre-tax profits. Literature has proven that this sad state of affairs has happened on the African continent, and Namibia must guard against falling into the same trap if Namibia has not already experienced same. One other way of avoiding tax evasion is when the office of the Inland Revenue is fully capacitated with highly committed, dedicated and competent personnel. They must be officials oriented with the spirit of national patriotism.

### **Access to information**

Access to information is one of the requirements for the elimination of corruption in a democratic society. For non-tolerance for corruption by the public and government alike, the government must respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, money laundering and other related organised crimes. As already alluded to in this and other reports, transparency is a critical requirement for a democratic society committed to the principles of good governance.

Globalisation has shifted focus from mere government to governance, meaning that with governance there is an inclusive process of participation of citizens either as groups or individuals at all stages of decision making process. Governance entails the transparent system whereby all stakeholders have the easy access to information that is for public interest.

Citizens are entitled to know how they are governed and also participate in economic, political, cultural and social decision making processes that ultimately determine their destinies. Citizens have the right as well to know and be informed how the public resources are utilised to improve their livelihoods. They have the right to demand information from the national leadership on any economic or social matter of public concern.

Access to information is a requirement under the regional and international treaties that Namibia has signed and ratified. Article 13 of the United Nations Convention Against Corruption, obligates States Parties to take appropriate measures to promote the active participation of individuals and groups including the civil society and non-governmental organisations in the prevention of and the fight against corruption and also to raise public awareness

regarding the existence, causes and gravity of and the threat posed by corruption. States Parties are required to ensure that the public has effective access to information and enhance the transparency of and promote the contribution of the public to decision making process.

Similarly, the African Union Convention on Preventing and Combating Corruption under Articles 9 and 12 makes it an obligation for States Parties to adopt laws that give right of access to any information that is required to assist in the fight against corruption and related offences. The Convention undertakes that civil society and the media must be fully engaged in the fight against corruption and related offences, that an enabling environment must be created for the civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs.

To date, Namibia has no relevant legislation on access to information. The Conference of States Parties to the United Nations Convention against Corruption established a Mechanism for the Review of Implementation of the United Nations Convention against Corruption. In terms of the Mechanism, States Parties are reviewed in order to determine the extent to which they have implemented the Convention. Namibia will be reviewed in 2014. Though Namibia has considerably implemented the Convention, the country may lose credit due to lack of laws on access to information and asset disclosure. It is recommended that the Law Reform and Development Commission considers giving priority to drafting laws on access to information and asset declaration.

Reservations often expressed by authorities with regard to legislation on access to information can be addressed under provisions relating to privacy, confidential information, safety of person and property, protection of investigation and legal proceedings, protection of privileged records, security of State and international relations.

Namibia is a shining example on democracy, the rule of law and justice for all. Thus, legislation on access to information is inevitable.

### **Accounting and Auditing Standards**

In order to effectively prevent corruption, all institutions that are funded with tax-payers money must be subjected to accounting and auditing by recognised auditing institutions. Anything less than the internationally accepted accounting and auditing standards breeds potential opportunities for money laundering, tax evasion and related crimes. No public funds must go unaccounted for and such practice must be prevented at all costs.

Eradicating corruption is possible. All sectors of society must effectively increase anti-corruption efforts to ensure that all loopholes for corrupt practices are closed. Fighting corruption is essential for investment and economic growth. Positive strides have been made, yet as a nation we need to double our efforts. It is doable to eliminate corruption and mismanagement of public resources.

## NOTES

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BE PART OF THE FIGHT!

# ACC

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