



Anti-Corruption Commission

**Annual Report
2006 - 2007**





The Anti-Corruption Commission is housed in the Frans Indongo Gardens, Windhoek

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TABLE OF CONTENTS

Anti-Corruption Commission Management Team	5
Preamble.....	7
Director's Overview	10
Organisational Structure	12
Statistics on and Status of Repots / Cases received	14
Promoting Public Awareness on the Risks of Corruption	16
International Support	21
Appendix: Frequently asked Questions	25

ANTI-CORRUPTION COMMISSION MANAGEMENT TEAM



*Mr Paulus K Noa
Director*



*Adv Erna L van der Merwe
Deputy Director*

PREAMBLE

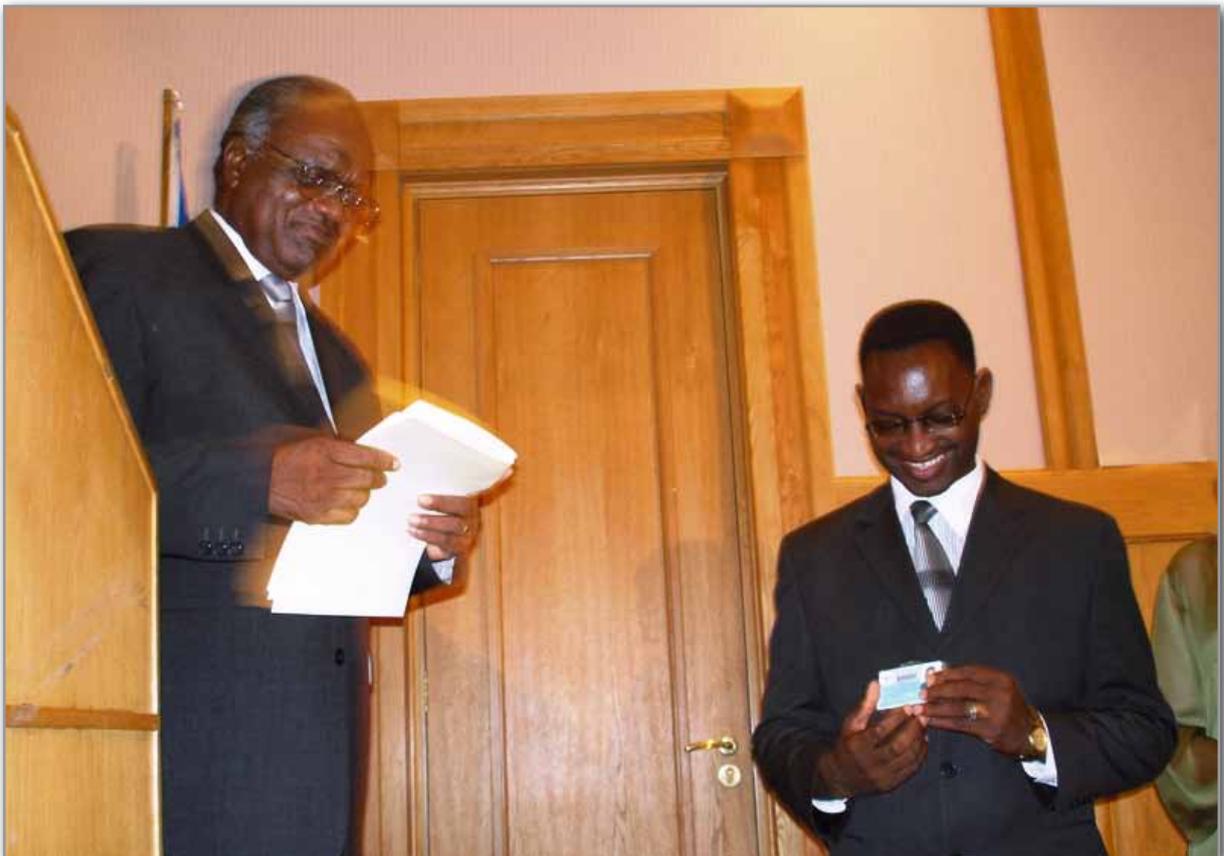
THE ANTI-CORRUPTION COMMISSION

Historical Overview

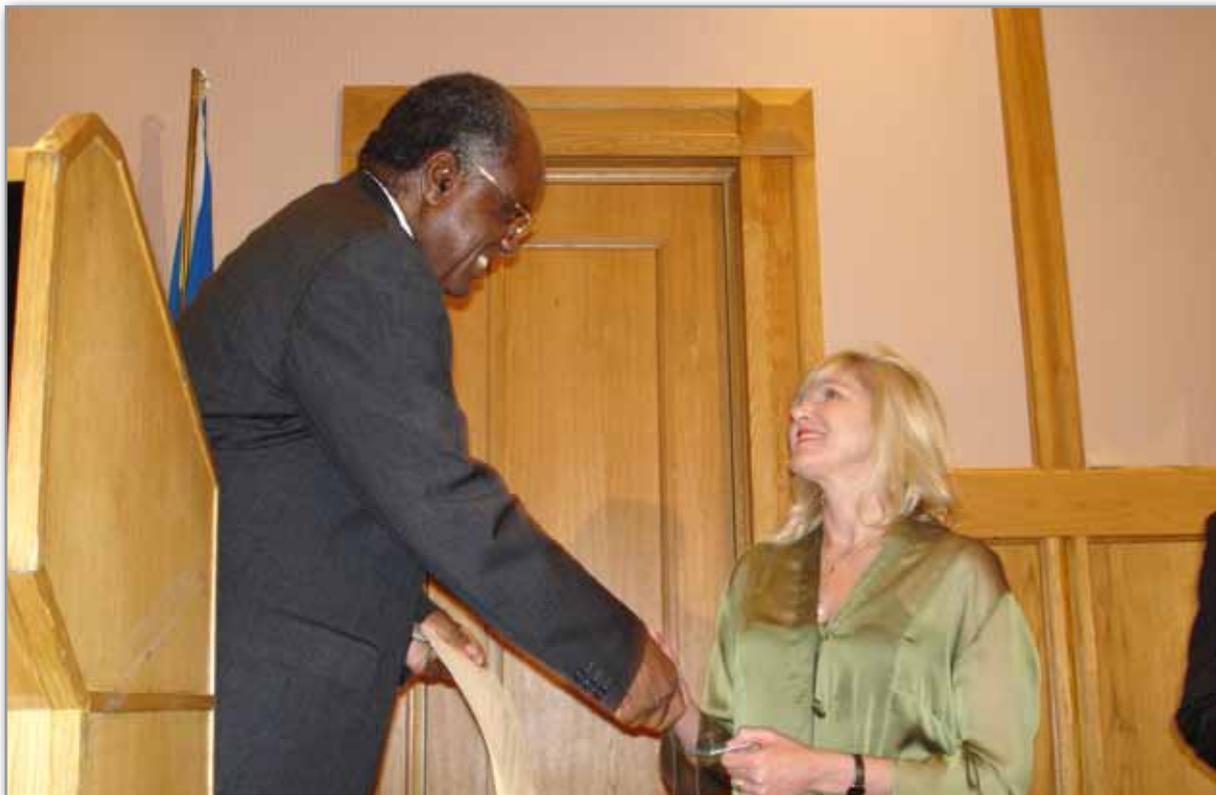
As far back as 1996 Cabinet adopted the recommendation of the then Attorney-General, Advocate R.V. Rukoro, to have a national consultative legislative, administrative and public education framework for the promotion of ethical behaviour and the prevention and combating of corruption in all sectors of Namibian society. Cabinet furthermore resolved that the consultation process should culminate in a National Consultative Conference on Integrity with the expectation that the conference would

reach consensus in respect of a comprehensive multi-sectoral National Integrity Strategy.

The rationale behind this was that Namibia, as a young nation engaged in the complex process of nation-building, had periodic incidents of corruption and gross maladministration and the fear was that these could become more frequent. It was recognised that the means available to detect such problems and prevent their reoccurrence were inadequate. The Government therefore opted to take initiatives in favour of good governance, greater accountability, transparency and cooperation in combating corruption. An Ad Hoc Committee on the



His Excellency, President Hifikepunye Pohamba, depicted above issuing the Director of the Anti-Corruption Commission with an authority card during the official inauguration of the Commission on 1 February 2006



His Excellency, President Hifikepunye Pohamba, depicted above issuing the Deputy Director of the Anti-Corruption Commission with an authority card during the official inauguration of the Commission on 1 February 2006

Promotion of Ethics under the Chairmanship of the then Right Honourable Prime Minister, Hage Geingob, was established and launched on 5 March 1997 and had terms of reference set by Cabinet. Initiatives such as the aforementioned eventually led to the establishment of the Anti-Corruption Commission.

Establishment of the Commission

The Anti-Corruption Act, 2003 (Act No. 8 of 2003), was enacted in 2003. Section 2 thereof provides for the establishment of the Anti-Corruption Commission as an independent and impartial body. This section furthermore provides that the Anti-Corruption Commission is an agency as contemplated in the Public Service Act, 1995 (Act No. 13 of 1995). The Anti-Corruption Commission came into being with the coming into force of the Anti-Corruption Act

on 15 April 2005. However, the Anti-Corruption Commission only became operational with the inauguration of the Commission by His Excellency, the President, on 1 February 2006.

Management Team of the Commission

The Anti-Corruption Act creates the positions of Director and Deputy Director. The Director is the head of the Commission and is assisted in the execution of control over the Commission by the Deputy Director.

The Director and Deputy Director of the Anti-Corruption Commission are nominated by His Excellency, the President, and appointed by the National Assembly.

The first Director and Deputy Director of the Anti-Corruption Commission were appointed

by the National Assembly on 9 November 2005 and their appointment became effective on 1 January 2006. Authority cards authorising the Director and Deputy Director to execute their duties were issued by His Excellency, President Hifikepunye Pohamba, during the Commission's inauguration ceremony that took place on 1 February 2006.

Functions of the Commission

In terms of section 3 of the Anti-Corruption Act, the functions of the Commission are as follows:

- a) To receive or initiate and investigate allegations of corrupt practices;
- b) to consider whether investigation is needed in relation to an allegation and, if so, whether the investigation must be carried out by the Commission or whether the matter should be referred to any other appropriate authority for investigation or action;
- c) to consult, co-operate and exchange information with appropriate bodies or authorities, including authorities or bodies of other countries that are authorised to conduct inquiries or investigations in relation to corrupt practices;
- d) to assemble evidence obtained in the course of its functions and to furnish –
 - i) to any other appropriate authority; or
 - ii) to the prosecuting authority or other suitable authority of another country, upon a formal request, evidence which may be admissible in the prosecution of a person for a criminal offence or which may otherwise be relevant to the functions of that authority;
- e) to investigate any conduct of a person employed by a public body or private body which in the opinion of the Commission may be connected with or conducive to corrupt practices, and to report thereon to an appropriate authority with the public body or private body;
- f) to take measures for the prevention of corruption in public bodies and private bodies, including measures for –
 - i) examining the practices, systems and procedures of public bodies and private bodies to facilitate the discovery of corrupt practices and securing the revision of practices, systems or procedures which may be prone or conducive to corrupt practices;
 - ii) advising public bodies and private bodies on ways of preventing corrupt practices and on changes of practices, systems and procedures compatible with the effective performance of their duties and which are necessary to reduce the likelihood of the occurrence of corrupt practices;
 - iii) educating the public and disseminating information on the evil and dangers of corruption, including through the publication and distribution of brochures and pamphlets or the holding of public conferences;
 - iv) enlisting and fostering public confidence and support in combating corruption;
- g) to disseminate information to the public about the functions of the Commission; and
- h) to do anything else that the Commission is required or authorised to do under this Act or any other law or which is necessary or expedient to do for achieving the purpose of this Act.

DIRECTOR'S OVERVIEW



The publication of this report marks the end of a challenging first year at the Anti-Corruption Commission. After I and my Deputy assumed office on 1 January 2006 we faced challenges such as recommending an appropriate organisational structure, recruiting essential staff such as investigating officers and support staff, and securing proper office accommodation and equipment that would enable us to execute our core functions of investigating corrupt practices, preventing corrupt practices, and educating the public on the dangers and evils of corruption and enlisting and fostering public confidence and support to combat corruption. All of the aforementioned had to be done within the restraints of the public service policies, rules and regulations and within the boundaries of limited funding of N\$6.5 million. The Commission nevertheless managed to have its first intake of investigators in March 2007. However, the Inspector-General of the Namibian Police seconded three of his members to assist the Commission whilst the Commission was in the process of recruiting its own members.

Also foremost amongst the challenges was the unrealistically high public expectation that a Commission that has barely been in existence and without a full staff complement can single-handedly rid the country of corruption. The Commission has been labeled by many of its critics as targeting and investigating only the small fish. In this regard I feel compelled to point out that cases such as the ODC, AVID and NDF that are often referred to as the “big fish” were already the subject of investigation by the Namibian Police when the Commission came into existence. Despite this being the case, the Commission offered its assistance to complement the Police’s investigations as the Commission is by law entitled to work in cooperation with other law enforcement agencies. The Commission also wishes to indicate that there has been positive progress in the investigations. With regard to the ODC case, the bulk of the evidence was gathered in South Africa. Progress in this regard is to a large extent owed to NAMFISA who through their generous financial support made it possible to secure the services of forensic auditors to analyse the flow of monies from the ODC to various entities. As this investigation extends beyond the borders of Namibia, the Honourable Minister of Justice and Attorney-General had lodged a Mutual Legal Assistance Request (MLA) with her counterpart in South Africa. Suffice it to say that good progress has been made in bringing this matter to closure. The progress with the AVID case is such that it is now in the capable hands of the Prosecutor-General. With regard to the NDF case, the N\$3 million transaction is being pursued in different countries through Mutual Legal Assistance Requests (MLA’s). In this context it is also worthwhile mentioning

that the Commission earlier this year, without any difficulty at all, obtained certain of the Presidential Commission of Inquiry Reports from the Office of the President. These reports are now being studied for purposes of identifying matters, if any, that warrant an investigation by the Commission.

A matter of grave concern to the Commission is the precarious living conditions of many Namibians. Those living in poverty have the perception that corruption is mainly to blame for the predicament in which they find themselves. If it could be understood that fighting poverty and corruption are the business and responsibility of all Namibians we will make headway in eliminating the same in Namibia.

Another matter of concern to the Commission is the inadequate legislative framework in force, especially with regard to the protection of witnesses and whistleblowers in general. It is also necessary to review the current access to information legislation to ensure greater accountability and transparency, particularly in government institutions.

The Commission will during the next financial year proceed with the recruitment of its public education and corruption prevention officials and will then be in a position to better advise on the revision of legislation, and on practices and procedures of public and private institutions that

need to be revised to ensure environments that are less conducive to corrupt practices.

All things considered, I am satisfied with the Commission's achievements during its short period of existence. However, the magnitude of complaints received by the Commission and the complexity of the investigations that have to be conducted call for an increase in the number of investigating officers. The Commission will address issues such as the shortage in human resource capacity and the need for office accommodation tailor-made for the Commission's special requirements during the next financial year. There is also a need for decentralisation of the Commission to make it more accessible to the public and ensure service delivery even in the more remote areas of the country. The Commission intends to cater for this need by establishing, during the course of the next financial year, satellite offices in at least two regions.

To conclude, I am confident that with the unwavering support from the political arena, civil society, the media and the public in general, the Commission will win the war against corruption.



Paulus Kalomho Noa

Director: Anti-Corruption Commission

ORGANISATIONAL STRUCTURE

INTRODUCTION

During June 2006 the Public Service Commission recommended, and the Secretary to Cabinet under delegated authority approved, a new organisational structure in respect of the Anti-Corruption Commission. The organisational structure provides for the Office of the Director and Deputy Director and for two Directorates, to wit, the Directorate Investigation and Prosecution and the Directorate Public Education and Corruption Prevention so as to enable the Commission to execute its mandate. In addition, the structure provides for a Division: Human Resources, Administration and Auxilliary Services responsible for delivering support services.

THE OFFICE OF THE DIRECTOR AND DEPUTY DIRECTOR

The Director as the head of the Commission is responsible for the direction, control and management of the Commission and is assisted in the execution of this responsibility by the Deputy Director of the Commission.

DIRECTORATE OF INVESTIGATION AND PROSECUTION

The Directorate of Investigation and Prosecution is responsible for the investigation of corrupt

practices. If, upon completion of an investigation, it appears that an offence of corrupt practice under Chapter 4 of the Anti-Corruption Act, 2003 (Act No. 8 of 2003), or any other offence has been committed, the file containing all information and evidence assembled is referred to the Prosecutor-General for a decision as to whether or not prosecution should take place.

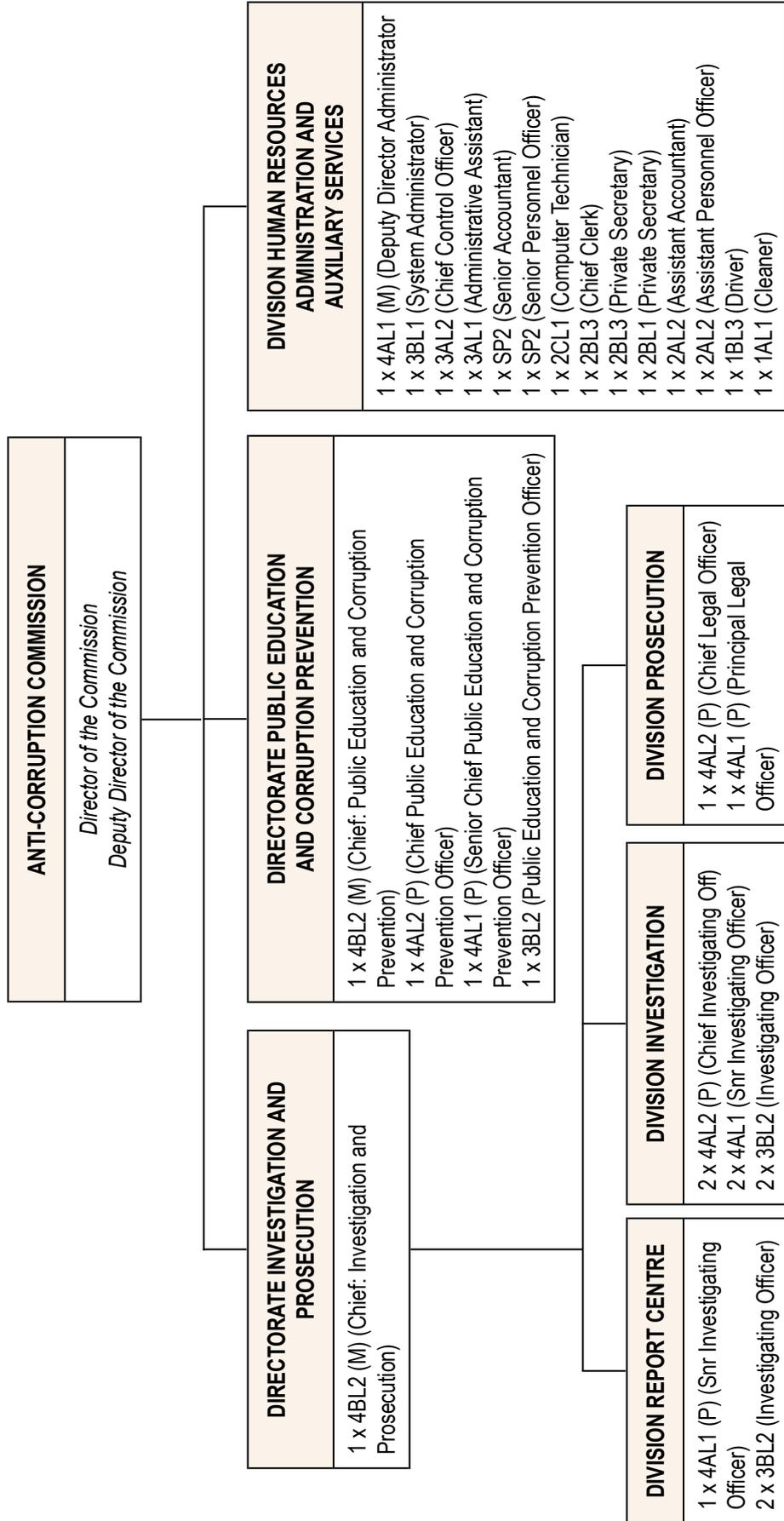
DIRECTORATE OF PUBLIC EDUCATION AND CORRUPTION PREVENTION

The Directorate of Public Education and Corruption Prevention is responsible for educating the public on the evils and dangers of corruption, advising on practices, systems and procedures to reduce the likelihood of the occurrence of corrupt practices in public and private institutions and for enlisting and fostering public confidence and support in combating corruption.

DIVISION HUMAN RESOURCES, ADMINISTRATION AND AUXILLIARY SERVICES

This Division is responsible for managing the finances, procuring the goods and services, providing the information and technology services, and ensuring efficient human resource management in respect of the Commission.

GRAPH OF THE ORGANISATIONAL STRUCTURE OF THE COMMISSION



STATISTICS ON AND STATUS OF REPORTS/CASES RECEIVED

Corrupt practices are reported to the Anti-Corruption Commission in person, through letters, telephone, fax or the media. The information received is analysed and if the conduct reported on appears to fall within the ambit of the definition of a corrupt practice contained in the Anti-Corruption Act, 2003, the Commission conducts either a preliminary investigation or a full scale investigation. However, 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.

Status of reports/cases received

During the period under review 686 reports/cases were received by the Anti-Corruption Commission.

The status of the reports/cases received is as follows:

- 85 Reports were investigated, but the cases were closed due to a lack of sufficient evidence or because the allegations contained therein appeared to be unfounded.
- 145 Reports were referred to other authorities for appropriate action. Some of these reports were partially investigated and referred whilst the nature of others was such that immediate referral was possible.
- 259 Reports were analysed and found to deserve no action by the Anti-Corruption Commission as appropriate action was

already being taken by other authorities or the particular cases did not fall under the mandate of the Commission. In the last mentioned instances the persons that submitted the reports were advised of other possible action that could be considered.

- 5 Reports received were consolidated with others containing similar information.
- 192 Reports are still being dealt with. Amongst these are six cases which are in the process of being finalised for submission to the Prosecutor-General for possible prosecution under the Anti-Corruption Act, 2003.

SAMPLES OF SOME OF THE MAJOR ONGOING INVESTIGATIONS

ACC CASE NO.	PARTICULARS OF INVESTIGATION
ACC2006/0193	An investigation into allegations that an employee of the Social Security Commission in collaboration with officials of certain government offices fraudulently secured the payment of sick leave benefits. It is estimated that the amount involved is N\$400,000. To date 64 persons have been arrested.
ACC2006/0192	An investigation into allegations that a Chief Customs and Excise Official of the Ministry of Finance accepted an estimated amount of N\$800,000 from a private businessman to ensure the evasion of the payment of import duties by the said businessman.
ACC2006/0191	An investigation into allegations that a Deputy Director of the Ministry of Environment and Tourism had solicited payment for the benefit of himself in respect of the issuing of gambling licences to members of the public contrary to a moratorium on the issuing of such licences.
ACC2006/0023	An investigation into allegations that the Governor of the Hardap Regional Council attended a workshop in South Africa and was paid subsistence and traveling allowance in respect of 12 days whilst she allegedly only attended the workshop for 4 days. It is furthermore alleged that the Council obtained quotations for certain work to be done in respect of the Governor's residence, and issued a letter of acceptance and prepared a purchase order in respect of a particular quotation, only to receive instructions allegedly from the Governor that the work should be awarded to a family member of the Governor. It is furthermore alleged that the Governor received moneys in respect of entertainment of certain elders whilst no such entertainment took place.
ACC2006/0524	An investigation into allegations that the Chief Regional Officer of the Karas Regional Council received subsistence and traveling allowance in respect of attending a sponsored training workshop in Germany as if the workshop had not been sponsored.
ACC 2006/0429	An investigation into allegations that the Rundu Local Authority amended its staff structure without first obtaining the required approval in respect thereof. It is furthermore alleged that certain high ranking officials of the local authority thereafter secured the promotion of themselves and other officials without following the prescribed procedures. It is estimated that an amount of N\$1,200,000 is involved in respect of unauthorised expenditure.
ACC2007/0126	An investigation into allegations that the former editor-in-chief of the Informanté Newspaper owned by Trustco Media (Pty) Ltd, a subsidiary of Trustco Group Holdings Ltd, had solicited kickbacks in the estimated amount of U\$35,500 (N\$248,500) whilst negotiating the purchase price of printing paper and a printing press on behalf of his employer.

PROMOTING PUBLIC AWARENESS ON THE RISKS OF CORRUPTION

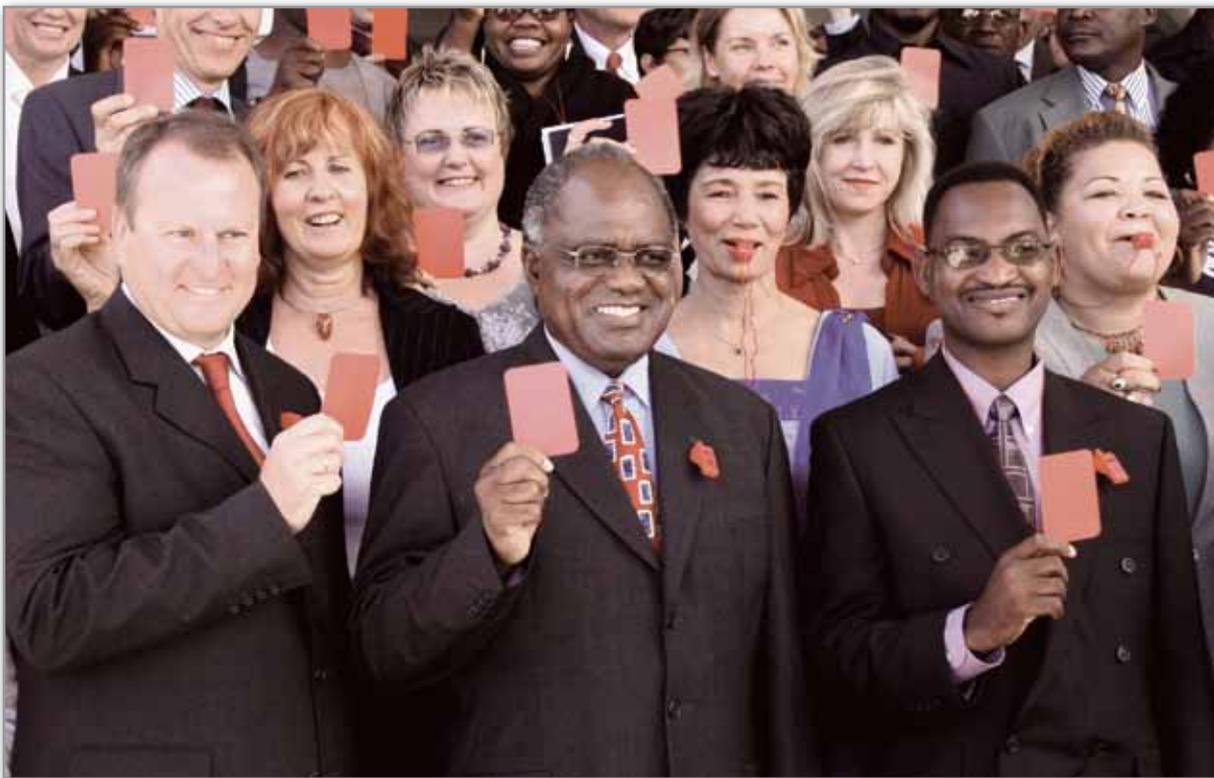
The Anti-Corruption Commission participated in various awareness campaigns/projects on corruption to build public trust and solicit public support for its anti-corruption activities. Amongst these campaigns/projects were the following:

THE ZERO TOLERANCE FOR CORRUPTION CAMPAIGN

His Excellency, President Hifikepunye Pohamba, officially launched the Zero Tolerance for Corruption Campaign on 27 March 2006. The said campaign is spearheaded by the Namibia

Institute for Democracy (NID) in collaboration with the Anti-Corruption Commission and various civil society organisations, and public and private sector institutions and is funded by the United States Agency for International Development (USAID), the Swedish International Development Agency (SIDA) and the Embassy of Finland.

The overall goal of the Zero Tolerance for Corruption Campaign is to reinforce efforts to reduce the levels of corruption in Namibia and to ensure that Namibia's reputation in the region



Photograph taken at the launch of the Zero Tolerance for Corruption Campaign depicting in the front row His Excellency, President Hifikepunye Pohamba, with the Director of the Anti-Corruption Commission, Mr Paulus Noa and the Executive Director of NID, Mr Theunis Keulder



Photograph taken at the Zero Tolerance for Corruption Trainees Workshop held in Walvis Bay depicting, among others, the Director of the Anti-Corruption Commission, Mr Paulus Noa, and Erongo Councilor, Honourable Hafeni Ndemula

and internationally is maintained with regard to transparency and integrity.

Specific objectives of the Zero Tolerance for Corruption Campaign include –

- o strengthening the institutional capacity of key government institutions to implement integrity systems through technical assistance and training;
- o enhancing public access to up-to-date information on corruption through surveys, public education/training programmes and media campaigns;

- o stimulating the overall capacity and willingness of all Namibians to participate to ensure transparent governance characterised by a superior level of integrity.

ANTI-CORRUPTION SAVE OUR NATION CHOIR COMPETITION PROJECT

Women’s Action for Development (WAD) in conjunction with the Anti-Corruption Commission and a number of corporate partners, concerned about the detrimental effects of



Photograph taken at the media briefing on the Anti-Corruption Save our Nation Choir Competition Project depicting the Director and Deputy Director of the Anti-Corruption Commission, the Executive Director of Women’s Action for Development and the Sponsors of the Anti-Corruption Save our Nation Choir Competition Project



The Polytechnic Choir performing the Anti-Corruption Save our Nation Song at the official launch of the Anti-Corruption Song Competition at the Windhoek Country Club on the 6 of October 2006

corruption in our country, endorsed the Anti-Corruption Save our Nation Choir Competition Project. The Save our Nation song with a strong anti-corruption message was composed by Ms Veronica de Klerk of WAD. The Polytechnic Choir was used to demonstrate the song and choirs were invited to enter the competition and emulate the song to the best of their ability. Members of the public were also invited

to participate in the Anti-Corruption Save our Nation Choir Competition by exchanging anti-corruption SMS messages. The purpose of this project was to create a nation-wide awareness on corruption and to mobilise the Namibian society to speak out against corruption and report the occurrence thereof.

OTHER AWARENESS ACTIVITIES

Presentations were made on invitation to a wide range of stakeholders at the occasions/venues shown below:

Corporate Governance and Anti-Corruption Conference	3 April 2006
Annual General Meeting of the Namibian Employers' Federation (NEF)	12 April 2006
National Institute for Educational Development (NIED)	26 April 2006
NID Introductory and Trainers' Workshop (Windhoek)	18-19 May 2006
Quarterly Business Forum of De Beers Marine Namibia (Pty) Ltd	2 June 2006
Conference on Combating Grand Corruption and White Collar Crime	7 July 2006
NID Introductory and Trainers' Workshop (Walvis Bay)	21 July 2006
Ernst & Young Fraud Survey on Emerging Markets	3 August 2006
Youth Conference on Corruption	4 September 2006
Polytechnic of Namibia	11 September 2006
Patrick Iyambo Police College	19 October 2006
Southern African Development Community (SADC) Parliamentary Forum	28 November 2006
Hans Seidel Foundation Address to the Donor Community	14 March 2007

Presentation on the Anti-Corruption Act during the Quarterly Business Forum of De Beers Marine Namibia (Pty) Ltd



Depicted are the Deputy Director of the Anti-Corruption Commission who gave the presentation, the Managing Director of De Beers Marine Namibia (Pty) Ltd and employees who attended the Quarterly Business Forum held on 2 June 2006

Participation in Radio and Television Interviews/Shows

NBC TV Talk of the Nation Show	13 March 2006
NBC National Radio Station Interview	14 March 2006
NBC Oshiwambo Radio Station Interview	31 March 2006
Kanaal 7 Radio Station Interview	6 June 2006
Chat Show of NBC Radio	1 August 2006
NBC National Radio Station Interview	13 November 2006
NBC National Radio Station Interview	5 December 2006
NBC National Radio Station Interview	21 February 2007

INTERNATIONAL SUPPORT

ANTI-CORRUPTION TRAINING

Two of the anti-corruption investigators were sponsored by the Commonwealth Secretariat to attend a training course for investigators that was held from 9 - 11 January 2007 in Mbabane, Swaziland.

The same number of investigators were sponsored by the United States Department of Homeland Security to attend a course on Financial Forensic Techniques that was held from 19 - 30 March 2007 in Gaborone, Botswana.

UNITED NATIONS DEMOCRACY FUND (UNDEF) GRANT

A grant was awarded by the United Nations Democracy Fund (UNDEF) for a project that is to be executed by the United Nations Development Programme in partnership with the Anti-Corruption Commission.

The aim of the project is to -

- o strengthen the capacity of the newly established Anti-Corruption Commission so as to enable it to fulfill its mandate as per the Anti-Corruption Act, (Act No. 8 of 2003); and
- o support the Government of Namibia's objective to ensure good governance, accountability and service delivery in line with the national development objectives.

INTERNATIONAL INVITATIONS EXTENDED

The International Association of Anti-Corruption Authorities (IAACA) Conference held from 19 - 20 April 2006 in Vienna, Austria

The conference was convened at the invitation of the Supreme People's Procurator's Office of the People's Republic of China, with the support of the United Nations Office of Drugs and Crime (UNODC). It was attended by the Director of the Anti-Corruption Commission. The aim of the conference was to improve international cooperation in the fight against corruption.

The Commonwealth Secretariat Anti-Corruption Conference held from 24 - 25 April 2006 in London, UK

The Commonwealth Secretariat extended an invitation to the Commission to attend a conference of which the theme was "The United Nations Convention against Corruption: Implementation and Enforcement: Meeting the Challenges". It was attended by the Director of the Anti-Corruption Commission. A wide range of matters regarding the United Nations Convention against Corruption was discussed and it was concluded, among other things, that there was a need for a coordinated anti-corruption strategy that addressed the five pillars of the convention, namely prevention, criminalisation, asset recovery, international cooperation and effective monitoring.

The Southern African Forum against Corruption (SAFAC) Annual General Meeting on the Implementation of the Regional Strategy against Corruption held from 7 - 10 August 2006 in Port Louis, Mauritius

The Human Rights Trust of Southern Africa (SAHRIT) extended an invitation to the Commission to attend the Southern African Forum against Corruption Annual General Meeting on the Implementation of the Regional Strategy against Corruption. Both the Director and Deputy Director attended. The travel and accommodation expenses with regard to the Director were sponsored by SAHRIT.

Seminar on Responsible Partnership in Development Policy – Corruption Free Development Aid held from 24 - 29 September 2006 in Helsinki, Finland

The Director and an anti-corruption investigating officer were sponsored by the Embassy of Finland to visit Finnish anti-corruption institutions and participate in a seminar on “Responsible Partnership in Development Policy – Corruption Free Development Aid”.

First Annual Conference and General Meeting of IAACA held from 22 - 26 October 2006 in Beijing, China

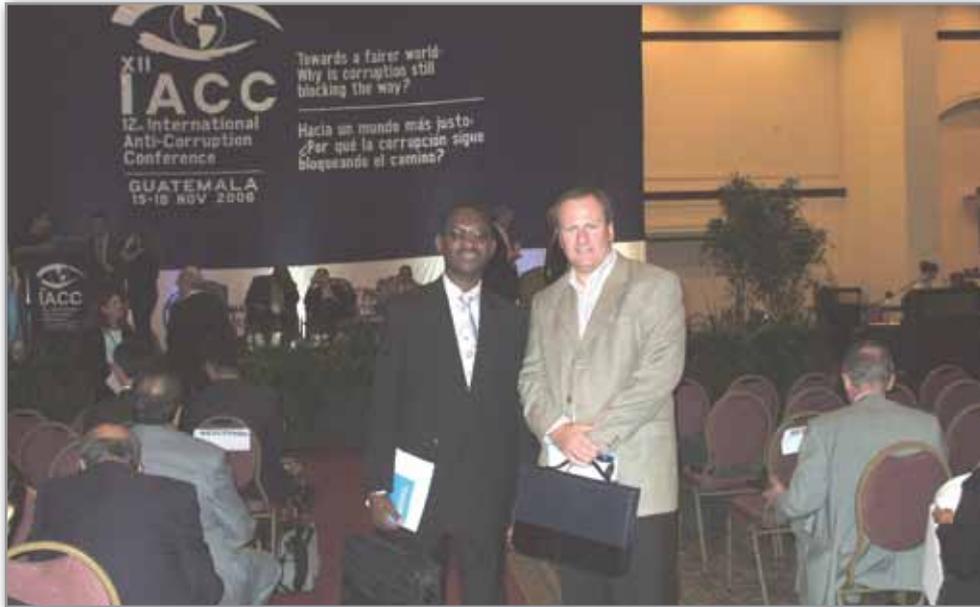
Namibia was represented by the Honourable Deputy Minister of Justice, the Prosecutor-General and the Director of the Anti-Corruption Commission. Namibia’s Minister of Justice was elected as the Vice-President of the Executive Committee of IAACA. Topics that were discussed at the conference included criminalisation, law enforcement and international cooperation, asset recovery and technical assistance, extradition and mutual legal assistance, special investigative techniques, cooperation between law enforcement and other national authorities, effective anti-corruption agencies, policies, structures and functions, involvement of civil society, the media and the youth.

Twelfth International Anti-Corruption Conference held from 15 - 18 November 2006 in Guatemala City, Guatemala

The Director of the Anti-Corruption Commission, Mr Paulus Noa, and the Executive Director of the Namibia Institute for Democracy, Mr Theunis Keulder, were sponsored by USAID to



The Director and an investigating officer attached to the Anti-Corruption Commission depicted paying an official visit to one of the Finnish Governmental Institutions



The Director of the Anti-Corruption Commission, and the Executive Director of the Namibia Institute for Democracy depicted attending the Conference in Guatemala

attend the Twelfth International Anti-Corruption Conference. During the conference special emphasis was placed on the importance of educating the public on the dangers of corruption. Emphasis was also placed on the need for the business community to adopt voluntary anti-bribery and anti-corruption policies and systems.

The Business Action against Corruption (BAAC) and Southern African Forum against Corruption (SAFAC) Meeting on Codes of Conduct, Norms and Standards held from 6 – 7 February 2007 in Lusaka, Zambia

The Director and Senior Human Resources Practitioner of the Anti-Corruption Commission were sponsored by the Human Rights Trust of Southern Africa (SAHRIT) to attend the meeting. The main objectives of the meeting were: To share knowledge on how to fight and reduce corruption in the region; to promote the development of codes of conduct jointly by the government and public and private sectors; to have benchmarking mechanisms on how to deal

with corruption cases of a complex nature; and to formulate a uniformed mechanism in setting up codes of conduct.

Second Pan-African Meeting of National Anti-Corruption Bodies held from 23 - 24 February 2007 in Johannesburg, South Africa

The Commission of the African Union extended an invitation to the Director of the Anti-Corruption Commission to attend the Second Pan African Meeting of National Anti-Corruption Bodies and paid his travel and accommodation expenses. The purpose of the meeting was to discuss the progress made in the implementation of the recommendations of the First Pan African Meeting of National Anti-Corruption Bodies held in Lusaka during 2005, and to prepare and consolidate Africa's strategy for the Africa Forum on Anti-Corruption scheduled to take place from 28 February to 2 March 2007.

The Regional Roundtable Meeting on the Implementation of the SADAC Protocol

against Corruption held on 27 February 2007 in Johannesburg, South Africa

The Human Rights Trust of Southern Africa (SAHRIT) sponsored the Director of the Anti-Corruption Commission to attend the Regional Roundtable Meeting on the Implementation of the SADC Protocol against Corruption. The focus of the meeting was on the implementation of the regional anti-corruption programme and the establishment of the SADC Anti-Corruption Committee that has to oversee the implementation of the programme.

The African Forum on Fighting Corruption held from 28 February – 2 March 2007 in Johannesburg, South Africa

The African Forum was sponsored by the African Union (AU). The main objective of the

African Forum on Fighting Corruption was for representatives of African countries to develop a common understanding of corruption and to develop a unified African perspective on fighting corruption. Namibia actively participated in the Forum as the head of the Namibian delegation, the Right Honourable Deputy Prime Minister, Dr Libertine Amathila, was one of the chairpersons of the Opening Plenary whilst the Prosecutor-General, Adv Imalva chaired the Workshop on Asset Recovery and the Director of the Anti-Corruption Commission participated in a live SABC TV broadcasting programme on anti-corruption strategies.



The Right Honourable Deputy Prime Minister, Dr Libertine Amathila, and Mr Steve Katjjuanjo, the Permanent Secretary of the Office of the Prime Minister, attending the African Forum on Fighting Corruption held from 28 February – 2 March 2007 in Johannesburg, South Africa

APPENDIX: FREQUENTLY ASKED QUESTIONS

Q: *What is the Anti-Corruption Commission?*

A: It is an independent and impartial body that has a statutory mandate to fight corruption. It is also an agency as contemplated in the Public Service Act, 1995 (Act No. 13 of 1995).

Q: *When and how was it established?*

A: The Commission is established by section 2 of the Anti-Corruption Act, 2003. However, it only came into being with the coming into force of the Act on 15 April 2005.

Q: *When did the Commission become operational?*

A: It became operational on 1 February 2006. This being the date of the formal inauguration of the Commission and issuing of authority cards to the Director and Deputy Director by His Excellency, President Hifikepunye Pohamba took place on 1 February 2006.

Q: *What are the functions of the Commission?*

A: The main function of the Commission is to combat corruption through investigation, prevention and public education. The Commission thus has a three-pronged approach in fighting corruption. The Commission is mandated under section 3 of the Anti-Corruption Act to -

- receive or initiate and investigate allegations of corrupt practices;
- refer an allegation to any other appropriate authority for investigation or action;

- consult, co-operate and exchange information with appropriate bodies or authorities, including bodies or authorities of other countries that are authorised to conduct investigations in relation to corrupt practices;
- prevent the occurrence of corrupt practices;
- investigate any conduct of a person employed by a public body or private body which may be connected with or conducive to corrupt practices;
- examine the practices, systems and procedures of public bodies and private bodies;
- advise public bodies and private bodies on ways of preventing corrupt practices;
- educate the public on the dangers of corruption;
- enlist and foster public confidence and support in combating corruption.

Q: *How is the Commission managed on a day-to-day basis?*

A: The Commission is headed by the Director who is responsible for the direction, control and management of the Commission. The Director is assisted by the Deputy Director who performs the functions conferred by the Act on the Deputy Director or as may be assigned to him or her by the Director. In addition, the Commission has officials who are responsible for the Directorates and Division.

Q: Who appoints the Director and Deputy Director?

A: The Director and Deputy Director are appointed by the National Assembly upon nomination by the President. The Director and Deputy Director are appointed on a full-time basis for five years and may be reappointed upon expiry of their term of office. The President determines the conditions of service of the Director and Deputy Director with the confirmation by the National Assembly.

Q: How does the Commission receive complaints about corruption?

A: The Commission receives complaints orally or in writing from members of the public or from institutions. Some members of the public prefer to report anonymously or give an indication that their identities should be protected. The Commission may also initiate investigations.

Q: Is the Commission accessible to members of the public who do not live in Windhoek?

A: The Commission has established a Free Hotline number 0800 222 888 through which the public anywhere in the country can reach the Commission. In addition, the Commission intends to, within the very near future, establish at least two regional offices and introduce mobile report centres to make itself more accessible to the public. This, of course, depends on the availability of funds. Once the Directorate of Education and Corrupt Prevention is fully operational, the Commission will be more proactive with its outreach activities to sensitise the public on the dangers of corruption and on reporting procedures.

Q: Does the Commission cooperate with other authorities in carrying out its mandate?

A: Yes. In terms of section 3 of the Anti-Corruption Act, the Commission may consult, co-operate and exchange information with appropriate bodies or authorities, including authorities or bodies of other countries that are authorised to conduct inquiries or investigations in relation to corrupt practices. The Commission frequently interacts with the Namibian Police as some of the complaints are of such a nature that it requires an investigation by the Police and not the Commission. In the fight against corruption, the Commission has to ensure, in addition to the Namibian Police, that it has good working relations with offices such as the Office of the Ombudsman, Office of the Auditor-General, Office of the Prosecutor-General and even the Parliamentary Committee on Public Accounts.

Q: Is the existence of the Commission guaranteed?

A: As the Commission is established by law it can only be abolished by law.

Q: Is the Commission an independent body?

A: Yes. The Commission is an independent and impartial body that is accountable to the Namibian people through the National Assembly by way of an annual report that the Director submits to the Prime Minister for tabling in the National Assembly. This guarantees the Commission's independence and ensures that it can perform its functions without fear of any interference.

Q: *What is the relationship between the Commission and other Commissions in Namibia?*

A: The Commission has the specific mandate to deal with corruption. Corrupt practices which it is mandated to deal with are defined in Chapter 4 of the Act. The Commission may cooperate with any other authority inclusive of any other Commission in the discharge of its mandate.

Q: *Does the Commission prosecute the cases it investigates?*

A: The Act explicitly states that, if upon completion of an investigation by the Commission, it appears to the Director that a person has committed an offence of corrupt practice under Chapter 4 or any other offence discovered during the investigation, the Director must refer the matter and all relevant information and evidence assembled by the Commission in connection with the matter to the Prosecutor-General. The power to prosecute is a constitutional power that vests in the Prosecutor-General. A staff member of the Commission who possesses the required legal qualifications to appear in a court of law in Namibia may prosecute if the Prosecutor-General, in consultation with the Director, delegates the authority to conduct criminal proceedings in court in respect of that matter. The staff member will in the exercise of such power be subject to the control and direction of the Prosecutor-General.

Q: *What are the major milestones achieved by the Commission since it became operational?*

A: At the time the Commission was inaugurated by the Head of State, only the Director and

Deputy Director were on the staff complement of the Commission. It was up to the Director and his Deputy to propose an appropriate organisational structure and secure in respect thereof the recommendation of the Public Service Commission and the approval of the Prime Minister. The bureaucratic processes unfortunately delayed the speedy operationalisation of the Commission. Recruitment had to be done in accordance with Public Service rules and policies. Beside the delay, the Commission has now recruited the investigating officers in the Directorate of Investigation and Prosecution. These investigators are doing excellent work and, with regard to many of the cases reported to the Commission, investigations have been completed or the cases have been referred to other authorities for investigation or appropriate action by them. The Commission is also in the process of finalising quite a number of cases for submission to the Prosecutor-General for a decision whether or not to prosecute.

Q *What are the Commission's main strategies for the near future?*

A: The Commission believes that educating the public on corruption is the best method to reduce the levels of corruption. Public intolerance towards corruption will result in stronger public demands for institutional changes to guarantee transparency and accountability in all administrations. In order to prevent corruption the Commission will:-

- continuously campaign against corruption;
- hold workshops and seminars to educate the public on the negative effects of corruption;
- hold frequent integrity workshops and seminars for all sectors;

- assist with the formation of anti-corruption groups, associations or coalitions;
- use the media to disseminate anti-corruption messages;
- target students - the future of Namibia - as a crucial segment of our awareness campaign;
- strive for the introduction of anti-corruption modules in the curricula of all educational institutions;
- encourage all Namibians to speak out against corruption without reservation.

In accomplishing the above-mentioned the Commission will cooperate with other law enforcement agencies, government institutions, civil society organisations, the media and individuals committed to expose corrupt practices.

Q: Can a person be prosecuted under the Anti-Corruption Act, 2003, for offences committed before the coming into force of the Act?

A: No. The Act has no retrospective effect unless of course it is a continuous offence. Depending on the facts of the case, the Prosecutor-General may decide to prosecute such a person, if it is not a continuous offence, under the Prevention of Corruption Ordinance, 1928 (Ordinance No. 2 of 1928), or with a common law offence of fraud or bribery or any other offence as the case may be.

Q: Does the Anti-Corruption Act, 2003, bind Namibians for offences committed outside Namibia?

A: Most definitely yes. Under the Anti-Corruption Act Namibian citizens and

persons domiciled or permanently resident in Namibia may be brought before Namibian courts for corruption offences committed in a foreign country if the conduct in question would amount to a corrupt practice under this Act.

Q: Is there any legal protection for persons who assist the Commission in its work?

A: Yes. The Anti-Corruption Act provides that no action or proceedings of a disciplinary, civil or criminal nature may be instituted or maintained by any person or authority against any informer or a person who has assisted the Commission in an investigation into an alleged or suspected offence under the Act. It should also be noted that the mentioned protection is not extended to those who maliciously give false information against others. However, the Commission is of the opinion that Protection of Whistle Blowers legislation should be enacted so as to extend protection to whistle blowers in general. This will help remove the fear of victimisation that people may have should they report corruption.

Q: What are the causes of corruption identified thus far?

A: It is appropriate to firstly state that corruption is a manifestation of institutional weakness, poor ethical standards, skewed incentives and inadequate enforcement of the laws of the country. As part of our national crusade against corruption and our quest to enforce transparency and accountability, legislation that adequately provides for the minimum standard of behaviour and conduct of public officials should now be enacted. Such legislation should also provide for mandatory disclosure of assets and liabilities.

The enactment of such legislation will reaffirm Government's commitment to ensure accountability and transparency in the conduct of public affairs.

The causes of corruption are, among others, the following:

- Lack of adherence to the laws, rules and regulations;
- Lack of programmes combating corruption in various institutions;
- Failure to develop proper ethical and business standards for the public and private sectors;
- Appointment of incompetent persons in certain in positions of authority;
- Lack of transparency and accountability in the decision-making process;
- Lengthy and cumbersome procedures in the decision-making process;
- Poor remuneration of employees;
- Absence of adequate internal controls to prevent bribery, nepotism and abuse of public properties.

Q: *What are the consequences of corruption?*

A: Corruption has many corrosive effects, such as -

- a shortage of essential services such as schools and hospitals;
- insufficient public facilities;
- a decline in economic development;
- a high unemployment rate;
- poverty and inequality;
- the facilitation of organised crime such as drugs, arms trade and money laundering;
- the violation of human rights;
- the undermining of the rule of law and representative democracy;
- an increase in political instability;

- the enrichment of a few at the expense of the majority.

Q: *What are the penalties for corruption under the Anti-Corruption Act, 2003?*

A: A person convicted of an offence under any provision of Chapter 4 is liable to a fine not exceeding N\$ 500 000 or to imprisonment for a term not exceeding 25 years or both such fine and such imprisonment.

Q: *What role can civil society organisations play in the fight against corruption?*

A: Civil society has an important role to play as a stakeholder in the fight against corruption. It is a vehicle that reaches out to ordinary citizens. The role that civil society can play, especially in raising awareness on corruption cannot be underestimated. Civil society organisations should develop anti-corruption educational materials as part of programmes sensitising the public. They should educate the public to demand quality goods, service delivery, transparency and accountability. Only when civil society is engaged in oversight programmes can the required levels of transparency and accountability be realised.

Q: *What about the media?*

A: In a democratic society like ours, where freedom of expression is guaranteed in our Constitution, the media can play a vital role in terms of exposing corruption, raising public awareness, enforcing and maintaining professional standards. The media has the responsibility of keeping the three pillars of the State monitored against corrupt practices. We cannot but appreciate the role that the media play in enhancing ethical values and in reducing the levels of corruption.

Q: *What can an individual do to help fight corruption?*

A: Preventing and fighting corruption is the responsibility of every citizen and resident of Namibia. The Anti-Corruption Act, 2003, then also places a duty on a public officer to whom any gratification is promised, offered, or given to report to the Commission. It places a similar duty on any other person from whom gratification is demanded. In this regard, it should be noted that failure to so report the Commission is an offence punishable with a fine not exceeding N\$500 000 or to imprisonment for a term not exceeding 25 years, or to both such fine and such imprisonment.

Q: *Where can the Commission be reached?*

A: Our contact details are:

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