

# Corruption in zambia and measures to address it



Introduction One of the major tasks of government is to provide goods and services to the people. There are however many factors that hinder the smooth delivery of goods and services. Corruption is one of the factors. A link has been established between corruption and economic stagnation.

Corruption leads to misallocation of resources meant for uplifting of the majority members of the public for the benefit of a few. It is a universal scourge that has been described differently by various schools of thought.

It tends to limit citizens access to free goods and services and reduces freedom of political choice in elections. It can also be linked to the escalation of poverty, as the prevalence of corrupt practices socially excludes the poor from freely accessing public goods and services. The government recognises that the increased prevalence of corruption has negative effects on the country's efforts to enhance socio-economic and political development. There is no universally agreed upon definition of corruption and it varies from one jurisdiction to another. However the general characteristics are similar.

The legal definition of corruption in Zambia is provided by the Anti-Corruption Commission Act of Zambia, 1996, which states: " Corrupt means the soliciting, accepting, obtaining, giving, promising or offering of a gratification by way of a bribe or other personal temptation or inducement, or the misuse, or abuse of a public office for private advantage or benefit, and corruptly shall be construed accordingly. " Anti-corruption commission act (1996: 5). This essay discusses the nature and extent of corruption in both the public and private sectors in Zambia. It highlights the strategies that the authorities have been using to fight corruption.

Nature of corruption The most common types of corruption in Zambia include petty, administrative or bureaucratic, grand and political corruption.

The National Governance Baseline Survey outlines the various forms corruption can take in Zambia, from administrative corruption to obtain permits or basic services to nepotism and procurement mismanagement (2004: 28). These can be evidenced in different forms which include:

Payment in Cash; Payments in Kind; Commissions through services indirect to relatives and friends; disadvantaging others or blocking them from their entitlements; Omission of performing certain functions (Muna, 2004: 26).

Petty Corruption according to Kunaka et al (2008: 13-15) is small scale and bureaucratic in nature. It takes place at the implementation end of politics, where the public officials meet the public. It entails bribery in connection with the implementation of existing laws, rules and regulations involving the modest sums of money. It is mainly encountered in day to day life like hospitals, schools, local licensing authorities, police, taxing authorities and so on. They see grand corruption or high level corruption as that which takes place at the policy formulation end of politics.

It is at the top levels of the public sphere, where policies and rules are formulated in the first place. An example of a grand corruption case coming into the public domain is that involving the former republican President, Fredrick Chiluba, and nineteen other public officials. In May 2007, these were found liable of defrauding the Zambian Government of more than US\$ 41 million by the London High Court. Momba (2002, cited in state of corruption Report 2002) defines political corruption as any transaction between private

and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs.

Political or grand corruption takes place at the high levels of the political system, when politicians and state agents entitled to make and enforce the laws in the name of the people, are using this authority to sustain their power, status and wealth. He highlights the different forms of political corruption pertaining to the 2001 presidential elections and contends that political corruption has continued unabated. He cites the use of state resources by the ruling party before and during the elections as well as the numerous abuses of state institutions to the electoral advantage of the ruling party.

He also highlights the unsatisfactory role of the electoral commission of Zambia (ECZ) in ensuring free and fair elections and narrates the numerous incidences of vote buying. According to Mutesa, administrative corruption is the official use and abuse of public resources by public servants who may include civil society and politicians (2002). He contends that pervasive bureaucratic corruption is an indicator of a break down in established procedure and regulatory mechanisms. He further asserts that administrative corruption and private sector corruption are intertwined.

An example of private sector corruption in conjunction with administrative corruption is that involving Mahtani Group of Companies legal counsel, Zaheeda Essa, and his Finance Bank counterpart, Barkat Ali. The duo is charged for conspiracy to commit the offence of money laundering in a matter involving the custody of original share certificates for Zambezi

Portland Cement contrary to Money Laundering Act. The allegation is that of false transfer of about US\$201, 935. 34 from Oddy's Works Limited Finance Bank Account to HSBC Bank in Egypt Flame Promotion and Procurement (The Post 23/03/10).

The case is still in the courts of law. Extent of corruption The incidence of corruption is widespread and systemic in the country. It varies from one institution to the other and from one location to the other. According to the Zambia National Governance Baseline Survey Report (2004), corruption had become one of the three major concerns of citizens. 87% of the people interviewed perceived corruption to be a problem in the country, with a growing tendency for officials to demand unofficial payments in return for services rendered.

According to the report, public services delivery institutions such as the Police (excluding traffic police), Traffic police, National Registration office, Judges/Court officials, Passport office, ZRA - Customs division, Pensions, and Lands Department, are perceived by surveyed households as having 10 per cent and above frequency of bribes. The Survey further shows that the most perceived corrupt institutions like Zambia Revenue Authority (customs), Traffic police, Lands, Passport Office, Police are the most bureaucratic, the most dishonest or not very efficient.

In addition, the survey shows that at the point of service delivery, corruption is perceived to be most prevalent at issuance of permits or licences; expediency of legal proceedings; during provision of basic public services, in particular education and health; expediency of revision of tax (customs);

and, expediency of obtaining contracts with state institutions. The Bribe payers Index survey revealed that 96.3% of the respondents were aware of what corruption was. Most Zambians know what corruption is and therefore have full knowledge of the consequences when they get engaged in it (2007: 15).

The incidence of public officials asking for bribes was 55.3% with the report attributing high bribery levels to failure of many ordinary citizens to meet basic needs for their families. In 2008 however, the Transparency International's Corruption Perception Index (CPI) slightly improved, awarding Zambia a score of 2.8, suggesting progress in terms of control of corruption, as perceived by analysts and businessmen (2008). This could indicate that Zambia's efforts against corruption are slowly starting to yield results. However, there is still a long way to go.

Strategies employed and their efficiencies There are a number of laws put in place to combat corruption (National anti-Corruption policy: 2009). These laws are meant to empower different institutions in the fight against corruption. They include: the Anti-Corruption Commission (ACC) Act No. 42 of 1996; Public Procurement Act No. 12 of 2008; Parliamentary and Ministerial Code of Conduct Act No. 35 of 1994; The Electoral Act No. 12 of 2006; The Prohibition and Prevention of Money Laundering Act No. 14 of 2001; The Bank of Zambia Anti-Money Laundering Directives 2004.

Despite the above legal framework, there are still challenges to the fight against corruption such as enhancing and harmonising anti-corruption laws and regulations, reviewing and enacting relevant legislation in the fight

against corruption and domesticating provisions in international instruments. With the aforementioned legal framework prevailing to combat corruption, it is necessary to examine the institutional framework that exists to implement the laws established. The National Anti-Corruption Policy (2009) highlights these institutions.

The ACC is an autonomous body composed of a chairperson, four commissioners and a directorate, all appointed by the president and subject to ratification by the national assembly. It is mandated to spearhead the fight against corruption through community education, prevention, investigations and prosecutions in public and private institutions. ACC's operations have been hampered by the lack of financial and human resources, including qualified staff which undermines its capacity to effectively deal with complex cases.

The Auditor General (AG) is appointed by the president subject to ratification by the National Assembly. The AG's office monitors expenditure of public resources with respect to the purpose in which it was established. Its effectiveness has been constrained by staff shortage, lack of funds and independence from political interference. The institution does not have the powers to sanction public officials who have misused or embezzled public funds but can refer the cases to the relevant authorities. The Zambia Police Service is the body tasked to provide law and order.

It's role against corruption is undermined by its lack of independence from political interference and lacks trained staff in investigative techniques, law and human rights. As mentioned earlier, it is also perceived by the public as

one of the most corrupt institutions in the country. The Director of Public Prosecutions (DPP) undertakes criminal proceedings and ensures that investigations conducted by other agencies are conducted in accordance with the law and principles of human rights. Recently it is generally felt that the DPP has under-performed in the fight against corruption, lacking staff and autonomy to perform effectively.

This can be exemplified in the case of unsatisfactory guidance of the DPP on former president, Frederick Chiluba's, acquittal of the alleged case of defrauding the nation of huge sums of money. The Drug Enforcement Commission (DEC) hosts the anti-money laundering investigations unit. It controls the importation, exportation, production, possession, sale, distribution and use of narcotic drugs and psycho tropical substances. It does not require the consent of the DPP to initiate prosecutions and has proved its capacity to investigate high level corruption allegations.

The Commission for Investigations deals with complaints of abuse of powers such as improper use of discretionary powers or arbitrary decisions. The commission has no power to investigate complaints against the President and all commissioners are appointed by the President. The Zambia National Tender Board (ZNTB) is responsible for the regulation and control of public procurement of goods and services. Much public procurement does not go through the ZNTB but is often carried out by the procuring ministry. ZNTB is also perceived as lacking independence and contracts are often awarded to well-connected bidders.



For instance the manner in which the tender was awarded to an Italian company to erect a rudder at the airport did not go well with the general citizenry and hence people were up in arms with the then Minister of Communication, Dora siliya. While the multiplicity of actors involved in the fight against corruption may reflect genuine political commitment to tackle corruption, it may also create coordination and cooperation challenges. Despite the existence of the afore-mentioned institutions, the fight against corruption is still beset with problems.

The problems are mainly that although law enforcement agencies refer cases to each other, most often they operate in isolation of each other, and follow-ups and systematic co-ordination and collaboration of their efforts is weak. The other problem is that law enforcement agencies do not often offer competitive conditions of service to attract qualified human resources, and hence nearly all institutions have serious human resources constraints and inadequate specialised skills. Another problem could be lack of sustainable legal and institutional framework and this tends to reverse or halt the work already in progress.

An example is the disbanded Task Force on corruption whose legality is being challenged. Former directors of the defunct Access Financial Services Limited are facing charges of alleged theft of US \$149, 000 and K226 million. The duo is challenging the legality of the dissolved Task Force on corruption and they have asked for documentation to that effect (The post 30/04/09). They are seeking, among other reliefs, a declaration that the force has no power to receive, investigate and prosecute complaints of alleged corrupt practices under the ACC Act or any other law.

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The case is still in the courts of law Discussion Anti-corruption interventions in Zambia have over the years been characterised by institutional reform, building and creation; legal reform; political pronouncements; and, public awareness campaigns undertaken by both public bodies and civil society organisations. An outstanding feature of anti-corruption interventions has been that these activities have most often been done in isolation, uncoordinated, and unenforceable manner.

The impact on combating and preventing corruption in the country, therefore, has not been adequately commensurate with the efforts and fiscal resources involved. Consequently, the country's lead agency in combating corruption, the (ACC) in recognition of the need " to create effective mechanisms for prevention of corruption in order to significantly reduce corrupt practices in both public and private bodies", set itself the task of developing a National Corruption Prevention Policy and Strategy (NCPPS).

The (NCPPS) seeks to harmonise and give direction to the numerous activities targeting corruption prevention as a means of creating effective mechanisms for the prevention of corruption in Zambia. In so doing, the NCPPS also seeks to facilitate the development of effective acceptable mechanisms to combating and preventing corruption in the country.

Ultimately, the National Corruption Prevention Policy and Strategy represents the country's aspirations, goals and objectives as a collective effort to the prevention of corruption. Conclusion

Corruption is a complex issue with linkages to other political and economic factors. Therefore tackling it is not a one shot endeavor but a long term

undertaking. It also calls for pro-activity on the part of the responsive institutions through prevention measures. The successful anti-corruption efforts depend upon political will to support initiatives to implement the law by the concerned institutions. This includes both the political will to initiate the fight in the first place and subsequently the will to sustain the battle over time until results are achieved.

The legal and institutional framework is but one of the factors which demonstrate the government's commitment to fight the vice. The actors and institutions involved in combating corruption include the Director of Public Prosecutions, the Auditor General, the Anti-Corruption Commission, the Drug Enforcement Commission and the Investigator General. However, most of these institutions are characterised by the lack of independence from political interference. While they may be formally independent, in practice, their operations are placed under the pressure of the executive's excessive powers.

In addition, government-based institutions are severely under-funded, lacking qualified staff and equipment to perform their functions effectively.

Recommendations

- There is need for liaison between the AG's Office, the ACC, the police service and money laundering unit in the DEC so that public officers or parastatal executives implicated in the AG's report can be appropriately dealt with.
- There is need to strengthen the operations of the ACC. The requirement that ACC obtains the consent of the DPP in prosecuting corruption cases constrains the ability of the ACC to speedily prosecute matters.