



**3<sup>rd</sup> Commonwealth Regional Conference  
for  
Heads of Anti-Corruption Agencies in  
Commonwealth Africa,  
Mauritius  
13 – 17 May 2013**

**“Fighting Corruption Without Fear and  
Favour”**



# **Rapporteur's Report**

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**ICAC Mauritius**



**Highlights:**

**Innovative Country Initiatives  
and  
Thematic Presentations**



# Day 1

# Presentation by Pr Kwame Frimpong

## Theme:

*Intricacies of the rule of law principles in respect of fighting corruption without fear and favour*

- One critical element of the rule of law is the **independence of the judiciary** which in turn need to have 3 essential elements:
  1. They should be “**competent**.” In other words having the capacity of authority to adjudicate over matters that come before them;
  2. They should operate “**Independently**,” the most critical element; and
  3. They need act “**Impartially**,” irrespective of who is appearing.

Remark: The same principles apply for ACA's

# Some basic requirements need be fulfilled for independence of the judiciary

- **Appointment process** should be done by an independent body ensuring that the judiciary is not being controlled by other branches of the government.
- **Security of tenure**: Once appointed, judges should enjoy full tenure without fear of being removed arbitrarily at the wishes of the executive or the legislature, except for stated misconduct.
- **Remuneration**: The salary for judges should be guaranteed and charged against an independent fund, such as the consolidated fund.

# Country Report-Botswana

- **DCEC:** Instituted in 1994 by Act of Parliament.

## Innovative work / initiatives implemented

- Amendment of the Corruption and Economic Crime Act
- Whistle Blowing and Declaration of Assets Legislation
- Establishment of a Corruption Court and Corruption Division at the Directorate of Public Prosecutions
- Reporting obligations of Ministries on their anti-corruption initiatives (Corruption Prevention Committees and Anti-Corruption Units)
- Integrity Committees/Corruption Prevention Committees

# Country Report - Cameroon

- National Anti-Corruption Commission of Cameroon - **CONAC** - created by a Presidential decree - March 2006.

## **CONAC's Actions / Projects:**

- The National Education Programme for Integrity
- The National Coalition Against Corruption
- The Rapid Intervention Unit and
- The Rapid Results Initiative to implement Cameroon's National Strategy to Fight Against Corruption involving the use of low-cost activities, whose results can be perceptible within 100 days, to fight against corruption.



# Presentation by Ms Polly Wan

- **Theme: *Burden of proof /prerequisite for any crime but different for corruption?***
- In prosecuting a corruption offence the first thing to do is to identify the criminality and the appropriate offence provision.
- Identify the ingredients of the offence and determine the mental element and the physical element.

# Burden of proof ...

- Identify any defences and determine whether there is a legal or evidential burden. Watch out for defences that may be an element of the offence. For instance, a lawful authority or reasonable excuse may be considered to be an element of the offence.
- The burden of proof on the prosecution is beyond reasonable doubt.

# Burden of proof ...

- Participants raised numerous pertinent questions on the burden of proof
- The ‘burden of proof’ remains a challenge for many countries with many cases failing in court
- It was suggested that the issue be brought on the agenda in another forum with more practical examples

# Country Report-Ghana

- The **Commission on Human Rights and Administrative Justice (CHRAJ)** fused *three* different institutions:
  - National Human Rights Institution;
  - an Ombudsman and,
  - an Anti-Corruption Agency.
- ***Innovative Strategies***
  - The institutionalisation of corruption prevention mechanisms in government departments
  - The Guidelines on Conflict of Interests issued by the Commission would soon become law, thus making the guidelines directly enforceable
  - A draft Code of Conduct/Ethics for public officers is being considered by Parliament
  - A ten year national anti-corruption action plan
  - Strategic Alliances-Ghana Anti-Corruption Coalition (GACC)



# Day 2

# Presentation by Mrs Strobel-Shaw, UNODC

- **UNCAC Review Mechanism:** Adopted by the General Assembly: Resolution 58/4, 31 October 2003
- The term 'corruption' is not defined
- Major breakthrough: Asset recovery as a fundamental principle
- The UNCAC paves the way for policy and legal reform and serves as a platform for national dialogue and provides for cooperation of anti-corruption actors

# The Review Stages

## Peer Review Process

- Drawing of lots
- Self-assessment
- Desk Review
- Active dialogue – teleconferencing, joint meeting in Vienna, country visits
- Country report- executive summary go to IRG (Implementation Review Group)

# UNCAC Review Mechanism

- Since it is non-punitive, there are no sanctions for non-compliance
- There is possibility of re-draw for peer review in certain circumstances
- South Africa has allowed for the publication of the country's report on UNODC's website – would be good if others do same.



# Country Report - Kenya

- The Ethics and Anti-Corruption Commission (EACC) - 2011

Two major innovations:

- **Electronic based Integrated Public Complaints Referral Mechanism (e-IPCRM)**
- **Memorandums of Understanding (MOUs) with strategic stakeholders in anti-corruption**
- E-IPCRM: brings together six agencies with a mandate of receiving complaints from the public-complaints centralised

# Country Paper – Kingdom of Lesotho

- Enhanced autonomy of **Directorate on Corruption and Economic Offences - DCEO**
- Investigating/prosecuting high profile cases
- Prevention and Education
  - Schools programme
  - Business Action Against Corruption
  - District Anti-Corruption Committees
  - Systems Integrity Committees

# Country Paper - Malawi

- The Anti-Corruption Bureau (1996)

## *Development of National Integrity System comprising:*

- Establishment of a **National Integrity Committee**
- Setting up of Anti-Corruption Clubs in rural areas
- Launching of fraud and anti-corruption policies for the concerned institutions
- **Delay reduction strategies** in both investigations and prosecution of cases
- **National Anti-Corruption Day: 05 February**

# Country Report - Mauritius

- **Independent Commission Against Corruption – PoCA 2002**
- State of the art infrastructure (PoCA, FIAMLA, Assets Recovery Act)
- Investigation:
  - Cyber-crime Unit (in process)
- Prevention through systems enhancement – 43 CPRs
- Public Sector Anti-Corruption Framework
- Education:
  - 5 R's STRATEGY-Empower the population to: **Recognize / Resist / Reject / Report / Reinforce**
  - Anti-corruption programmes for youth and young professionals
  - Integrity Clubs / GP Paper
  - Empowerment of key public officials

**Presentation by Justice Mzikamanda, Sc, Malawi Supreme Court of  
Appeal –  
The Role of the Judiciary in fighting Corruption**

- Article 11 of the UNCAC recognizes that the judiciary has a crucial role in combating corruption.
- Governments ought to take the lead in any anti-corruption drive.
- Members of the judiciary are accountable to society and judicial accountability is critical, in the same way judicial independence is.
- Procedures for investigating corruption within the judiciary must be publicly known and clear

# Presentation by Justice Mzikamanda, Sc, Malawi Supreme Court of Appeal

- A Judicial Service Commission is an example of a body that can undertake an investigation of an allegation of corruption against a judicial officer
- The judiciary has a role in ensuring quick disposal of corruption cases
- Some jurisdictions have set up special **anti-corruption courts** to deal exclusively with corruption cases, thereby ensuring early and efficient disposal of such cases.
- The setting up of **anti-corruption courts** has been widely hailed as an important legal innovation

# Country Paper - Zambia

## ANTI-CORRUPTION COMMISSION ZAMBIA

### *Some initiatives:*

- Developed Vulnerability Assessment and Monitoring Tools
- Integrity Committee
- Random Integrity Checks
- Participation in various tender evaluations
- Public education and road shows
- Development of an Asset Disclosure System for public officials
- Enhancement of Asset Recovery Programme
- Implementation of an Integrated Financial Management Information System (IFMIS).
- Launch of the Facebook Page to capture the Young People's since Dec 2012

# Country Paper - Namibia

- Anti-Corruption Commission (1996)

## Some Initiatives:

- Case Management System is put in place and this helps the Commission to keep its data up to date.
- The Protection of Whistle Blower Bill is being drafted and will be tabled in Parliament
- The Criminal Procedure Act is to be amended to introduce **Plea Bargaining System**
- Laws on Asset Declaration and Access to information is being drafted
- Anti-Corruption Unit within the office of the Prosecutor General is established





**Day 3**

## Group Work

### **Outcome of Group Work - Sensitization campaigns conducted and impact assessment**

#### **1. Campaign in schools:**

- E.g. Cameroon : 'Corrupt-free schools' & ' Competitive Entrance Examination' for professional schools
- Similar programmes conducted by Lesotho and others

#### **2. Mass Communication campaigns**

- E.g. Namibia: uses mass campaign such as billboards, media, flyers and radio for mass sensitisation
- Mauritius uses targeted approach such as billboards, TV clips, radio spots, press advertisements and empowerment sessions
- Zambia also targets rural areas

# Outcome of Group Work – Day 3

## 3. Mass campaigns

- South Africa: Dissemination of information to the public prior to elections
- Impact Assessment
  - Conduct of professional surveys, mini surveys, feedback reports, comments/forums on facebook page around regular themes e.g. Mauritius

# Country Paper – Nigeria (ICPC)

## *Some innovative works:*

- Value based education in form of National Values Curriculum.
- National Anti-Corruption Volunteer Corps (NACP)
- Anti-Corruption Transparency and Monitoring Units
- National Anti Corruption Coalition (NACC)
- Chairman's Governor's Forum

# Country Paper – Nigeria (EFCC)

## *Other major initiatives:*

- Polygraph for staff
- New MOUs with Australian Federal Police, British Serious Fraud Office amongst others
- Decentralisation of forensic laboratory section

# Presentation: Corruption Opinion Survey – Namibia ACC

Namibia ACC undertook a Private Sector Survey to determine the existence of the framework on fighting corruption and promoting good governance

- **Objectives:**

- To provide information for evidence-based decisions during anti-corruption policy formulation and programme planning and implementation.
- To provide baseline data in the private sector for an on-going corruption monitoring

# Corruption Opinion Survey – Namibia ACC

## *Summary of findings:*

- 92% and 73% of the medium to national corporate and small enterprises respectively, have the anti-corruption framework in place
- Medium and large national enterprises have a lot of activities on training for employees, activities to monitor in order to make sure that corruption is decreasing.
- None of the businesses they interviewed has polygraphs.



# Day 4



## Impact of CPI on Commonwealth African Countries as a Benchmark – Tim Steele, Mrs B. Strobel-Shaw

### ***CPI: An Annual Perception Survey***

- Not the actual index which is the problem  
but the way it's made up
- Broad indicator – difficult to use for  
comparative purposes
- A public relations issue : media and press

## Impact of CPI on Commonwealth African Countries as a Benchmark

- CPI: an annual public relation challenge!
- Adopt pro-active policy before CPI is released:  
publicize good case examples / successes
- If there is a drop in ranking, it may be attributed to  
methodological issues
- There is no perfect indicator
- No universally accepted alternative: CPI second best  
option

# Impact of CPI on Commonwealth African Countries as a Benchmark

## Suggestions:

- Each country should undertake its own perception/opinion surveys
- Accomplishments publicized to showcase achievements
- TI on board - will be invited for the next conference

# Country Paper – South Africa

- No singular anti-corruption body
- Multiple institutions developed close working relationships with law enforcement, treasury bodies, oversight bodies, legislatures and others.
- Focus areas:
  - increasing focus on procurement related fraud and corruption matters
  - assist with improving systems and processes to prevent corruption
  - use of data to indentify potential irregularities pro-actively
  - assist the Departments with Anti-Corruption strategies

# Country Paper - Uganda

- **The Inspectorate of Government (IG) - 1987**

TAAC- the oversight program meant to ensure transparency in

- Fiduciary matters
- Regulation
- Gender equality
- Social accountability, both in communities and government agencies

- **Innovations under TAAC**

- New systems of accountability based on citizen participation and engagement
- Development of grievance handling systems
- Increasing accessibility of the IG to citizens

# Country Paper – Sierra Leone

- Anti Corruption Commission (2000)

## ***Some initiatives to enlist public support***

- National Dialogue Forum
- School Campaigns (Integrity Clubs)
- Integrity Committees in Public Institutions
- Community based events
- Annual Integrity Awards
- Radio and TV programs
- Partnering with Theatre Groups

# Country Paper – Rwanda

- The Office of the Ombudsman (2003)

## **Some Initiatives:**

- Implementation of a National Anti-Corruption Policy
- Conducting operational audits in public and private org.
- Targeted training session & Sensitization campaigns
- Establishment of the Anti- Corruption Advisory Council at National, District and Sector levels;
- Publishing the list of convicted persons for corruption in newspapers, magazine and on the Ombudsman website
- Annual assets declaration by public officials provided by the law; since 2011 assets are declared using online system

# Country Paper - Tanzania

## The Prevention and Combating of Corruption Bureau (PCCB) – 2005

### Some Achievements

- Strategic Plan as a tool enabled PCCB to be on track on its daily activities and be able to monitor and evaluate the organization performance
- Increased number of files sent to DPP
- Distribution of Printed Materials
- Radio and Television programmes
- Quick Control on Corruption loopholes





# Common Elements in the Fight Against Corruption

- 3-pronged attack: Prevention, Education and Investigation
- Anti-corruption programmes in schools
- Mass communication / sensitisation campaigns
- Anti-Corruption Committees / Integrity Committees



# **Common Challenges/Constraints Across Countries**

# Some Common Challenges / Constraints

- Inadequate financial / technical / human resources
- Capacity building / specialised training
- Protection of whistleblowers
- Staff turnover
- Amendments to legislation
- Change in mindset

# Group work

## Commonwealth Anti-Corruption Centre- (CACC) Strategic Plan

*“To be a world-class African anti-corruption resource centre that promotes ethics, integrity and good governance.”*

Mission Statement:

*“To effectively support anti-corruption initiatives and promote cooperation and research in Commonwealth Africa with integrity and professionalism.”*

# Commonwealth Anti-Corruption Centre- (CACCC) Strategic Plan

## Core values:

- Transparency
- Accountability
- Integrity
- Professionalism
- Fairness

# Commonwealth Anti-Corruption Centre- (CACCC) Strategic Plan

**Strengthening solidarity and mutual support among member ACAs framework**

- Chairperson to have regular visits to members of ACAs and communicate regularly with them
- Exchange programmes on training
- Maintain good interpersonal relationships between Heads of ACAs



**-End-**