

**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

**THE NATIONAL ANTI-CORRUPTION POLICY AS AN
EFFECTIVE TOOL IN THE FIGHT AGAINST
CORRUPTION IN ZAMBIA**

BY

MADIAM NKHUWA KADANGO

COMPUTER No. 26064952

UNZA

APRIL, 2011


THE NATIONAL ANTI-CORRUPTION POLICY AS AN EFFECTIVE TOOL IN THE FIGHT AGAINST CORRUPTION IN ZAMBIA

**Being a research paper submitted to the University of Zambia in partial
fulfillment of the requirements for the award of the Bachelor of Laws
(LLB) Degree.**

April, 2011.

DECLARATION

**I, MADIAM NKHUWA KADANGO, COMPUTER NUMBER 26064952 DO
HEREBY** declare that the contents of this Directed Research Paper are based on my
findings. I have however, referred to other peoples work and have duly acknowledged.

Date: 14 . 04 . 2011 Signature: 

**UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

I, recommend that this Directed Research under my supervision by Madiam Nkhuwa Kadango.

Entitled:

**THE NATIONAL ANTI-CORRUPTION POLICY AS AN
EFFECTIVE TOOL IN THE FIGHT AGAINST
CORRUPTION IN ZAMBIA**

Be accepted for examination. I have checked carefully and I am satisfied that it fulfils the requirements relating to format as laid down in the regulations governing Directed Research.

.....
Judge Kabazo Chanda (Rtd)

Date:.....

TABLE OF LEGISLATION

African Union Convention on Preventing and Combating Corruption.
Anti-Corruption Act No. 38 of 2010
Commission for Investigations Act Chapter 39 of the Laws of Zambia
Constitution of Zambia
Bank of Zambia Anti Money Laundering Directives 2004
Electoral Act No. 12 of 2006
Forfeiture of Proceeds of Crime Act No. 19 of 2010
Judicial (Code of Conduct Amendment) Act No. 17 of 2008
Narcotic Drugs and Psychotropic Substances Act Chapter 96 of the Laws of Zambia
National Prosecutions Authority Act No. 34 of 2010
Parliamentary and Ministerial Code of Conduct Act No. 35 of 1994
Penal Code Act Chapter 87 of the Laws of Zambia
Pleas Negotiations and Agreements Act No. 20 of 2010
Prohibition and Prevention of Money Laundering Act No. 14 of 2001
Public Finance Act No. 15 of 2004
Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010
Public Procurement Act No. 12 of 2008
SADC Protocol against Corruption
United Nations Convention against Corruption
Zambia Development Agency Act No.11 of 2006
Zambia Police Act Chapter 107 of the Laws of Zambia
Zambia Police (Amendment) Act No. 15 of 2008

TABLE OF CASES

The People v. Geshom Mumba (unreported) 2002

The People v. Maxwell Mwamba (unreported) 2002

The People v. Christopher Singogo (unreported) 2008

The People v. Richard Sakala (unreported) 2002

The People v. Samuel Musonda – SS/99/2004

ACKNOWLEDGEMENTS

I would like to thank all those who helped me during the course of my research work. My special appreciation goes to my Research Supervisor Judge Kabazo Chanda (Rtd) who was always available for consultation and rendered the necessary guidance.

I wish to thank my family for the encouragement and moral support throughout the programme. Special thanks to my housemaids who looked after my babies well each time I was busy with school and special thanks to my younger sister Senwa Nkhuwa who tirelessly typed the paper.

ABBREVIATIONS

| | | |
|---------|---|--|
| ACC | - | Anti-Corruption Commission |
| AU | - | African Union |
| BOZ | - | Bank of Zambia |
| CEEC | - | Citizenship Economic Empowerment Commission |
| CSO | - | Civil Society Organisation |
| DEC | - | Drug Enforcement Commission |
| DPP | - | Director of Public Prosecutions |
| FNDP | - | Fifth National Development Plan |
| ICs | - | Integrity Committees |
| KCM | - | Konkola Copper Mines |
| MDA | - | Ministry, Department, Agency |
| NACP | - | National Anti-Corruption Policy |
| NCBPGGZ | - | National Capacity Building Programme for Good Governance in Zambia |
| NIPA | - | National Institute of Public Administration |
| NRFA | - | National Road Fund Agency |
| PHI | - | Presidential Housing Initiative |
| PIA | - | Pensions and Insurance Authority |
| PPA | - | Public Procurement Authority |
| PRSP | - | Poverty Reduction Strategy Paper |
| PSRP | - | Public Service Reform Programme |
| RTSA | - | Road Transport and Safety Agency |
| SADC | - | Southern African Development Community |
| SITET | - | Special Investigations Team on Economic and Trade |
| SNDP | - | Sixth National Development Plan |
| UNIP | - | United National Independence Party |
| ZP | - | Zambia Police |
| ZRA | - | Zambia Revenue Authority |

ABSTRACT

The fight against corruption should not be static but dynamic as the vice is also getting more sophisticated. Many people have written about what corruption is and the effects on both society in any given nation and the international world. International aid is guaranteed on the basis of good governance. It is in this vein that new strategies have to be developed which would help in the effective eradication of this corruption. These new strategies are in addition to the already existing ones provided by the repealed Anti-Corruption Commission Act No. 42 of 1996 now replaced by the Anti-Corruption Act No. 38 of 2010. In view of the above, the National Anti-Corruption Policy (NACP) was formulated and officially adopted by the Republican President, His Excellency Mr. Rupiah Bwezani Banda on 27th August, 2009 whose implementation is expected that there would be a paradigm shift in the manner in which national affairs are conducted as the policy is anticipated to inspire fundamental changes in the field of governance. Thus, the research paper will focus on the fight against corruption through the National Anti-Corruption through the National Anti-Corruption Policy and its implementation plan. The paper will not only concentrate on the provisions of the policy at national level but will go further to discuss and analyse the legal and institutional framework at national level as well as other regional and international instruments that are relevant to the fight against corruption.

Zambia ratified; the United Nations Convention against Corruption (UNCAC) on 7th December, 2007; the African Union Convention on Preventing and Combating Corruption in 2007; and the Southern African Development Community (SADC) Protocol against Corruption in 2003.

It is hoped that this research paper will bring about an understanding and appreciation of the National Anti-Corruption Policy and the level of its effectiveness as the implementation plan is being executed through the participation of all stakeholders at legal, institutional and social level. The approach to the fight against corruption through the NACP is more integrated and therefore the challenge lies on every citizen.

Chapter Three

| | | |
|------|---|----|
| 3. | The Legal and Institutional framework relevant to the fight against corruption in Zambia..... | 13 |
| 3.1. | Legal framework..... | 13 |
| 3.2. | Institutional framework..... | 20 |

Chapter Four

| | | |
|------|--|----|
| 4. | Background to the fight against corruption: The National Anti-Corruption Policy and its implementation plan..... | 25 |
| 4.1. | Background..... | 25 |
| 4.2. | Case Law..... | 27 |
| 4.3. | The National Anti-Corruption Policy..... | 29 |
| 4.4. | The National Anti-Corruption Policy Implementation Plan..... | 35 |
| 4.5. | Key actions towards implementation of the National Anti-Corruption Policy..... | 37 |

Chapter Five

| | | |
|------|-------------------------------------|----|
| 5. | Conclusion and Recommendations..... | 42 |
| 5.1. | Conclusions..... | 42 |
| 5.2. | Recommendations..... | 44 |

| | |
|--------------------------|-----------|
| Bibliography..... | 48 |
|--------------------------|-----------|

CHAPTER ONE

1. INTRODUCTION AND BACKGROUND

The subject of corruption and its detrimental effects on society at large has been greatly explored by many writers. Indeed some of the effects are clear as can be seen from the high poverty levels. Zambia has not been spared from this scourge. The governments world over recognize the increased prevalence of corruption. Corruption has been and is still a significant impediment to good governance in Zambia.

The principal legislation providing for anti corruption in Zambia is the Anti Corruption Commission Act No. 42 of 1996, which came into effect after the repeal of the Corrupt Practices Act No. 14 of 1980. However, this legislation is currently under review. The ACC Bill of 2010 passed through Committee Stage in Parliament.¹ However, the most critical in the review process in the removal of Section 37 of the ACC Act No.42 of 1996 which the Government claims to be retrogressive and undemocratic. The anti corruption fight in Zambia and in most developing countries has been tackled through the traditional approach which involves; investigations, prosecution, education and prevention strategies. These strategies have not been effective as the levels of corruption are still escalating.

Corruption has been identified as a moving target; it simply means that for any strategy to be effective, it must keep pace with the dynamic nature of crime.² Corruption involves behavior on the part of officials in the public sector whether politicians or civil servants in whom they improperly and unlawfully enrich themselves or those close to them by the misuse of the public power entrusted to them.³

¹ On 3rd November, 2010

² Cited in Constance Kunaka, the SADC Protocol Against Corruption, SAHRIT Harare, Zimbabwe, (2002) p. 19

³ Jeremy Pope, ed, National Integrity Systems, the TI Source Book, Transparency International, Berlin, Germany (1997) p.1

It is now widely understood that corruption undermines economic performance, weakens democratic institutions and the rule of law, disrupts social order and destroys public trust, thus allowing organized crimes, terrorism and other threats to human security to flourish...no country, rich or poor, is immune to that evil phenomenon.⁴ Corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies; making international cooperation to prevent and control it, essential.⁵

The Annual Report (2008-2009) issued in accordance with Section 15 of the Anti-Corruption and Economic Crimes Act, 2003 by the Kenya Anti-corruption Commission has outlined the many challenges that the institution is faced with in the fight against corruption. This Commission is mandated to combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in the Anti-corruption and Economic Crimes Act, 2003. Thus, in carrying out its mandate, the Commission has had set backs. Amongst the challenges faced by the Commission was; The Kenya Vision 2030 and its first Medium Term Plan (2008-2012) recognize the need to have a national anti-corruption policy to provide strategic direction on the fight against corruption.

The 2008 Annual Report of the Directorate on Corruption and Economic Crime, Botswana quotes the Director Mr. T.M. Katlholo saying “the biggest challenge we faced is that fighting corruption is a moral war and this is compounded by the fact that standards used to measure the levels of corruption worldwide are based on perceptions and this therefore, makes it difficult to assess the true level of corruption in any given country-Botswana is no exception... I note with satisfaction that our deliberate resolve to make the issue of corruption a public debate has realized some degree of success in motivating the nation to join the drive against the scourge...no anti-corruption initiative could ever succeed unless the public rallied behind and trusted in the work of the anti-corruption agency.

⁴ Kofi Annan, the immediate former UN Secretary General

⁵ UN Convention against corruption, Chapter IV

A lot has so far been written on the fight against corruption and the various approaches and measures taken to combat the scourge. However, very little has been said on how a national policy would be used as an effective tool in this war. A national anti-corruption policy is a more effective, acceptable, harmonized and coordinated approach as compared to the traditional approach. The National Anti-Corruption Policy provides for effective and acceptable Legal, Institutional and Social interventions.

The essay is outlined in a manner that chapter one contains an introduction and background to the fight against corruption and the measures so far applied in an effort to completely eradicate this vice. Chapter two discusses the key instruments in the fight against corruption at international level as this corruption scourge affects the entire globe. Further that chapter three discusses the legal framework relevant to the fight against corruption in Zambia. Chapter four discusses and analyses the National Anti Corruption Policy and the implementation plan. Finally, chapter five comprises the conclusion and recommendations.

1.1 STATEMENT OF THE PROBLEM

The fight against corruption has not been easy anywhere in the world. The anti-corruption fight remains a problem that both developed and developing countries continue to grapple with in an attempt to eradicate it completely. The Anti-Corruption Commission has been vested with power to investigate corrupt practices through the Anti-corruption Commission Act.⁶ Zambia is party to the United Nations Convention against Corruption (UNCAC) which is the first legally binding international anti-corruption instrument. The UNCAC obliges its state parties to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices. Zambia is also party to the Southern Africa Development Committee (SADC) Protocol against Corruption and the African Union (AU) Convention on preventing and combating corruption. These multilateral instruments aim at promoting and strengthening the

⁶ No. 42 of 1996

development of mechanisms and policies that would prevent, detect and punish corruption.

In March 2000, the Government launched the National Capacity Building Programme for Good Governance in Zambia. This programme and the Poverty Reduction strategy paper acknowledge that corruption is a serious governance challenge, which significantly contributes to poor public service delivery and affects economic and social development in Zambia. It follows then that this research has identified a problem in the effectiveness of the current strategies in fighting corruption. In order to achieve success in the fight against corruption, there is need to develop efficient and robust anti-corruption strategies which will address the root causes of corruption and put in place measures for the prevention of corruption.

The fight against corruption has remained unsuccessful on account of the available strategies being stagnant and irresponsive to the dynamic nature of crime.⁷ As a reaction to this problem, this research explores a situation whereby a framework for developing ways and means of preventing corruption in a comprehensive, co-coordinated, inclusive, and sustainable manner is established through the National Anti-corruption Policy and its implementation plan.

The Policy acknowledges that corruption is a complex crosscutting problem, which requires a multi-faceted approach to deal with it as opposed to the traditional approach. .

“I am reluctant to pin everything on one approach but tonight at least I am going to say that in our efforts to defeat corruption in Zambia we should have a much, much stronger approach...⁸“There is too much reliance on the donors to fight corruption for Zambians. In a democracy, if you feel things are being done wrongly, speak and fight corruption on your own. It is the duty of every citizen to fight and say no to the things they see wrong”.⁹

⁷ Anti Corruption Commission Act No. 42 of 1996

⁸ Corruption in Zambia: is it inevitable? Can we stop it? By Peter J. Henriot, Presentation in JCTR 2007 series, 19th April

⁹ Zambia must strengthen fight against corruption –Macleod Nyirongo Sunday Post 30th August, 2010

1.2 SCOPE OF THE STUDY

This research will cover the anti-corruption fight through the newly launched National Anti-Corruption Policy by the Republican President Mr. R.B. Banda. The research further looks at how effective the policy will serve as a strategy in the anti-corruption fight through a critical review of the policy's implementation plan. The research will concentrate on the Zambian scenario. However, some examples will be drawn from other jurisdictions which will serve to compare how other policies have been developed and implemented. The ACC Act No. 42 of 1996 is currently under review. The ACC Bill of 2010 has so far passed Committee Stage in Parliament with a unanimous exclusion of Section 37 of the Act which criminalizes abuse of office by public servants.

1.3 RATIONALE FOR THE RESEARCH

The research will discuss the importance and relevance of the National Anti-Corruption Policy in combating corruption. The discussion will go further to discuss the viability of this policy in as far as it has been couched and intended to operate as a strategy in the fight against corruption. The research will bring to light the idea behind the introduction of the policy whereby there is need for the participation and involvement of all sectors, institutions and individuals in tackling corruption.

1.4 OBJECTIVES OF THE STUDY

To establish whether the National Anti-Corruption Policy will/is effective as a strategy in combating and preventing corruption in Zambia. Further that this effectiveness is achievable and measured through the implementation plan (2010) already in place.

1.5 HYPOTHESIS

The problem of corruption has been one of the most enduring dilemmas confronting governments throughout history. Although differences may exist in the nature and scope

of corrupt behaviour, and the extent to which anti-corruption measures are enforced, the phenomenon can be found at all times and within virtually every political system. The traditional approach in fighting corruption has not been adequate hence this research looks at the effectiveness of a national anti-corruption policy which is a more integrated measure in preventing and fighting corruption.

1.6 UTILITY OF THE STUDY

The results of this research will benefit both private and public individuals and institutions as it is expected that the scourge will reduce once the policy is fully implemented within a period of five years. The courts are expected to have a letter backlog of cases of corruption. The Anti-corruption Commission and other agencies such as the Auditor-General's office will have less work arising from corruption reports.

1.7 METHODOLOGY

The research was conducted by studying the provisions of the Anti-Corruption Commission Act No. 42 of 1996 of the Laws of Zambia including the ACC Bill of 2010. The study of other materials done on corruption through desk bound study and library research work was also done. A consideration of the study of the relevant international instruments relevant to the fight against corruption was done. An overview of other agencies that assist in the fight against corruption in Zambia has also been considered together with the relevant legislation relating to the fight against corruption.

CHAPTER TWO

2. INTERNATIONAL INSTRUMENTS RELEVANT TO THE FIGHT AGAINST CORRUPTION

Corruption occurs in almost all the countries around the world. Media reports of corrupt practices that have been uncovered provide evidence that the scourge is not only limited to developing countries. Corruption is therefore a global problem and has been viewed as a robbery on a nation and its resources by greedy people. Consequences of corruption are quite devastating in that investment reduces; there is poor infrastructure development and poor service delivery. In view of this problem, countries have embarked on a national strategy to tackle corruption and criminate it. Legislation has been put in place as well as agencies to help in the fight against corruption. Since corruption is a criminal offence, local agencies aimed at eradicating corruption have been supplemented by international instruments.

Conventions help to fill up gaps in an event that domestic legislation is inadequate. The only set back is that while most countries have endorsed or ratified these instruments, very few countries have domesticated them to the extent that they are of a binding effect in the process of adjudication. The provisions of these instruments provide for the states parties to implement a wide and detailed range of anti-corruption measures which aim at the promotion of the prevention, criminalization, law enforcement, international cooperation and asset recovery.

The three (3) prominent multilateral instruments which are of material relevance to the fight against corruption include the Southern African Development Communities (SADC) Protocol against Corruption, the United Nations Convention against Corruption (UNCAC); and the African Union Convention on Preventing and Combating Corruption (AU Convention).

SADC PROTOCOL AGAINST CORRUPTION

Corruption has been considered a major concern in the development of a country within the Southern African Region. The SADC Protocol focuses on strengthening mechanisms to prevent, detect, punish and eradicate corruption in the Southern Region of Africa. The primary objective of the Protocol is to improve and harmonize anti-corruption policies and laws in and across the region and to facilitate regional cooperation. SADC member states are obliged to bring their domestic legislation in line with the Protocol and harmonize mutual legal assistance mechanisms.¹⁰ Further that each member state should develop a detailed framework for combating corruption in both the public and private sectors.¹¹ The SADC Protocol states that corruption:

“indicates bribery or any other behavior in relation to persons entrusted with responsibilities in the public and private sectors which violates their duties as public officials, private employees, independent agents or other relationships of that kind which are aimed at obtaining undue advantage of any kind for themselves or others”.

The four (4) main objectives of the Protocol are:-

- a) to prevent, detect and prosecute corruption in the public and private sector;
- b) to promote and facilitate co-operation among state parties in support of prevention, detection and prosecution of corruption in all sectors;
- c) to provide a framework for harmonizing policies and legislation against corruption and;
- d) to set standards by which to periodically measure, through peer review, the performance of member states in combating corruption.

¹⁰ SADC Protocol, Article 7

¹¹ Article 4 of SADC Protocol

The protocol also states that each state party should adopt measures as may be necessary to enable the confiscation and seizure of proceeds of an offence under its laws.¹² Most SADC member states that have so far ratified the Protocol have also enacted domestic laws to help in the fight against corruption e.g. Zambia has enacted the Forfeiture of Proceeds of Crime Act;¹³ Public Interest Disclosure (Protection of Whistleblowers) Act;¹⁴ Plea Negotiations and Agreements Act;¹⁵ and the National Prosecution Authority Act.¹⁶

2.2 THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

The UNCAC is the first legally binding international anti-corruption instrument. In its 8 Chapters and 71 Articles, the UNCAC obliges its states parties to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices. These measures aim to promote the prevention, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange, and mechanisms for implementation.

The UNCAC was adopted by the United Nations General Assembly in Merida, Yucatan, Mexico, on 31st October, 2003 by Resolution 58/4 and entered into force on 14th December, 2005. As of 8th September, 2009, there were 140 signatories and the convention had been ratified, accepted, approved or acceded by 137 countries.

The UNCAC is the most recent of a long series of developments in which experts and politicians have recognized the far-reaching impact of corruption and the need to develop effective measures against it at both the domestic and international levels. International action against corruption has progressed from general consideration and declarative statements to legally binding agreements. The definitions and understanding of corruption have become broader and so have the measures against it. The UNCAC deals

¹² Article 8 of SADC Protocol

¹³ No. 19 of 2010

¹⁴ No. 4 of 2010

¹⁵ No. 20 of 2010

¹⁶ No. 34 of 2010

with forms of corruption that had not been covered by many of the earlier international instruments, such as trading in official influence, general abuses of power, and various acts of corruption in the private sector. A further significant development was the inclusion of a specific chapter of the convention dealing with the recovery of assets, a major concern for countries that pursue the assets of former leaders and other officials accused or found to have engaged in corruption.

The UNCAC covers five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange. It includes both mandatory and non-mandatory provisions. Under the chapter on preventive measures, anti-corruption bodies should implement the anti-corruption policies. Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as the judiciary and public procurement. The UNCAC also places particular emphasis on the involvement of civil society and on the general reporting process through which the public administration reports to the people.

States Parties are to establish or maintain a series of specific criminal offences including not only long-established crimes such as various forms of bribery and embezzlement, but also conduct not already criminalized in many states, such as trading in official influence and other abuses of official functions. In the area of law enforcement, the UNCAC calls for better cooperation between national and international bodies and with civil society. There is a provision for the protection of witnesses, victims, expert witnesses and whistle blowers to ensure that law enforcement is truly effective. In the area of international cooperation, the UNCAC calls on states parties to assist one another in every aspect of the fight against corruption, including prevention, investigation, and prosecution of offenders.

The implementation of the UNCAC and monitoring mechanism through Article 63 of the UNCAC establishes a Conference of States Parties (CoSP) with a mandate to, inter alia,

promote and review the implementation of the Convention. The “UNCAC Coalition”, established in 2006, is a network of more than 200 Civil Society Organizations (CSOs) that is committed to promoting the ratification, implementation and monitoring of the UNCAC. It aims to mobilize broad civil society support for the UNCAC and to facilitate strong civil society action at national, regional and international levels in support of the Convention.

In general, the adoption of an effective follow-up monitoring mechanism is often considered to be one of the biggest challenges that still lie ahead. Many developing countries also face the challenge of implementing the demanding provisions of the UNCAC into national law, and above all into the reality of daily life. Effective technical assistance, as foreseen in the UNCAC, is therefore crucial for the successful implementation of the Convention. Zambia ratified the UNCAC on 16th December, 2007 which entered into force on 6th January, 2008. According to a press statement released by Transparency International Zambia President, Reuben Lifika, he stated “ratification of the UNCAC if not implemented locally would just remain on paper... that ratification is alright because it provides measures for asset recovery and new dimensions of fighting the vice.”¹⁷

2.3 THE AFRICAN UNION (AU) CONVENTION ON PREVENTING AND COMBATING CORRUPTION

The African Union Convention on Preventing and Combating Corruption (AU Convention) was adopted in Maputo on 11th July, 2003. It represents regional consensus on what African states should do in the areas of prevention, criminalization, international cooperation and asset recovery. The AU convention has the following coverage: Public sector and private sector corruption; wide range of offences including bribery (domestic or foreign), diversion of property by public officials, trading in influence, illicit enrichment, money laundering and concealment of property; and measures include

¹⁷ The Post Newspaper, Monday 17th December, 2007

prevention, criminalization, regional cooperation and mutual legal assistance, recovery of assets.

The AU Convention main benefits include:

- a) Regional agreement on importance of addressing corruption with a comprehensive framework, setting common standards.
- b) Covers the supply and demand sides of corruption, private sector and public sector corruption, broad range of criminal offences.
- c) Requirements of whistle blower and witness protection (Article 5).
- d) Requirements relating to public sector internal accounting and auditing systems (Article 5).
- e) Important preventive measures required in the public service such as declaration of assets by designated public officials, creation of code of conduct and monitoring body; ensuring proper management of tendering and hiring procedures. Additionally, restrictions on immunity for public officials (Article 7).
- f) Requirement of transparency in political party funding (Article 10).
- g) Recognition of role of private sector in corruption and addresses private-to-private corruption (Articles 4, 11).
- h) Other preventive measures calling for education and awareness raising (Article 5), as well as access to information for the media and involvement of private sector and civil society in the prevention of corruption (Article 12).
- i) Regional cooperation framework established providing improved mutual law enforcement assistance, including in extradition, investigations, as well as confiscation, seizure and repatriation of proceeds of corruption.

CHAPTER THREE

3. THE LEGAL AND INSTITUTIONAL FRAMEWORK RELEVANT TO THE FIGHT AGAINST CORRUPTION IN ZAMBIA

3.1 LEGAL FRAMEWORK

Zambia has been cited at various fora as among the countries whose governments have made headway in the fight against corruption. Various law enforcement agencies have been relentless in investigating and bringing to book those found to be engaged in corrupt activities. The Zambian courts of law are vigorously prosecuting those charged with various cases of corruption. In addition, various sensitization programmes including clubs in schools are contributing to building a strong anti-corruption culture among Zambians which is the most effective bulwark against the vice.

There is wide acknowledgement among cooperating partners of the sincerity and commitment on the part of the Zambian government in the fight against corruption. This acknowledgement has been manifested through the constant support that the cooperating partners have rendered to Zambia in fighting corruption. However, critics have stated that:

“The fight against corruption in 2009 can be termed to have been multi-textured. The general characteristic of the fight is that there was an absence of a clearly stated vision especially from President Rupiah Banda and his Cabinet. Partly this can be attributed to a very mild form of political leadership on the matter which simply failed to inspire any meaningful action against those engaged in corruption”.¹⁸

Lifuka cited the example of the Dennis Chirwa Tribunal which was set up to investigate alleged misconduct of Honorable Dora Siliya who then served as Communications and Transport Minister. He stated that the Tribunal did allude to a number of such inadequacies in public procurement and that it is a pity that to date, the Republican President has not publicly reacted to the Tribunal’s report despite asking for time to study

¹⁸ Reuben Lifuka, Transparency International Zambia President: Reflection on the Fight Against Corruption in 2009, TIZ Information Centre

the said report. Lifuka went on to state that the other example is that in which the Second Republican President, Frederick Chiluba was acquitted of all the corruption charges and the failure by the State to appeal against the acquittal which move was supported by President Banda.

Notwithstanding the above, the legal framework in Zambia relevant to the fight against corruption is hereunder discussed.

THE ANTI-CORRUPTION ACT No. 38 OF 2010

The Anti-Corruption Act¹⁹ is preceded by the ACC Act No. 42 of 1996 which has been repealed and replaced. This Act establishes the Commission as an autonomous institution with a mandate to be a lead institution with a mandate to be a lead institution in the fight against corruption in Zambia. The Act defines corrupt as:

“the soliciting, accepting, obtaining, giving 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 contrary to Section 99 of the Penal Code and Corruption shall be construed accordingly”.

The Act broadened corruption from just receiving a bribe to include even soliciting or offering of gratification. The Commission encourages the public to make reports of any corrupt practices by individuals both in the public and private sector. Complainants are at liberty to disclose their identity or not. However, the Act now provides for the protection of witnesses in that whistleblowers are now protected under the Public Interest Disclosure (Protection of Whistleblowers) Act.²⁰ This is couched in Section 63 of the AC Act No. 38 of 2010. The ACC undertakes activities in corruption prevention; community education; and investigations and prosecution.

¹⁹ No. 38 of 2010

²⁰ No. 4 of 2010

The Act gives powers to the Director-General or any authorized officer of the Commission to investigate cases of corruption. The review of the ACC Act ²¹has resulted in the removal of Section 37- possession of unexplained property clause from the Act. The main contention by parliamentarians was that the clause was unconstitutional as it compelled an accused person to render an explanation as to how he/she acquired the property, which act is in breach of Article 18(7) of the Constitution of Zambia.²²

Section 37(1) read:-

“The Director-General, the Deputy Director-General or any Officer of the Commission authorized in writing by the Director-General may investigate any public officer where there are reasonable grounds to believe that such public officer:-

- a) has abused or misused his office, position or authority to obtain property, wealth, advantage or profit directly or indirectly for himself or any other person;
- b) maintains a standard of living above that which is commensurate with his present or past official emoluments;
- c) is in control or possession of pecuniary resources or property disproportionate to his present or past official emoluments; or
- d) is in receipt of the benefit of any services which he may reasonably be suspected of having received corruptly or in circumstances which amount to an offence under this Act.”

The argument by Parliamentarians which resulted into the removal of Section 37 was that an accused, by being forced to render an explanation is presumed guilty which is also against the constitution as an accused is innocent until proven guilty in the process of adjudication. The burden of proof does not shift to an accused person.

The AC Act ²³also provides that:

“the Director-General may by written notice to a person who is a subject of an investigation in respect of an offence alleged or suspected to have been committed under the Act, or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Director-General”.²⁴

²¹ No. 42 of 1996

²² Chapter 1 of the Laws of Zambia

²³ No. 38 of 2010

²⁴ Section 56(1)

The AC Act²⁵ also provides that any money, property or thing of any description which was derived from the proceeds of crime becomes liable to forfeiture by the court,²⁶ through the provisions of the Forfeiture of Proceeds or Property corruptly acquired Act No. 19 of 2010. Such recovered property may be forfeited to the State as provided by the Forfeiture of Proceeds of Crime Act.²⁷

Section 19(1) of the AC Act,²⁸ prohibits Public Officers from accepting gifts unless they are “Casual Gifts”. A “Casual Gift” is defined as:

“any conventional hospitality, on a modest scale or unsolicited gift of modest value, offered to a person in recognition or appreciation of that persons services, or as a gesture of goodwill towards that person, and includes any inexpensive seasonal gift offered to staff or associates by a public or private body or a private individual on festive or other special occasions, which is not in any way connected with the performance of a person’s official duty so as to constitute an offence under Part III.”²⁹

THE PENAL CODE ACT CHAPTER 87 OF THE LAWS OF ZAMBIA

The Penal Code is the principal legislation prescribing crimes and their penalties. Before the passing of the three (3) anti-corruption Acts; the repealed corrupt practices Act No. 14 of 1980; the ACC Act No. 42 of 1996; and AC Act No. 38 of 2010, corruption could only be prosecuted under the premises of the Penal Code. The Penal Code contains a number of provisions dealing with corruption, abuse of office and the exercise of public authority. Chapter X proscribes corrupt conduct in a public office and this also includes provisions relating to false claims for personal gain, false assumption of authority and impersonating of public officers.

Section 97³⁰ provides that:

²⁵ No. 38 of 2010

²⁶ Section 68 of the Anti Corruption Act No. 38 of 2010

²⁷ No. 19 of 2010

²⁸ No. 38 of 2010

²⁹ Part I of the Anti Corruption Act No. 38 of 2010

³⁰ Penal Code Act Chapter 87 of the Laws of Zambia

“any person employed in the public service and charged by virtue of his employment with judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade of business of a special character, and having acquired or holding directly or indirectly, a private interest in any such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business in which he has such interest or with respect to the conduct of any person in relation thereto is guilty of misdemeanor and is liable to imprisonment for one year”.

Section 99 ³¹ provides that:

“any person who, being employed in the public service does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights or interest of the government or any other person is guilty of a misdemeanor if the act is done or directed to be done for purposes of gain, he is guilty of a felony and is liable to imprisoned for three years”.

PUBLIC PROCUREMENT ACT No. 12 OF 2008

The Public Procurement Act ³² repeals and replaces the Zambia National Tender Board Act of 1982. The Act provides for continued existence of the Zambia National Tender Board, but renames it the Public Procurement Authority (PPA). The Act seeks to ensure transparency and accountability in public procurement; and regulate and control practices relating to public procurement in order to promote the integrity of fairness and public confidence in public procurement processes.

THE PARLIAMENTARY AND MINISTERIAL CODE OF CONDUCT ACT No. 35 OF 1994

The Act was passed to establish a code of conduct for offices of Vice President, Cabinet Ministers and Deputy Ministers in accordance with Article 52 of the Constitution, and for members of the National Assembly in accordance with Article 71 of the Constitution. The Act provides that in the event of a breach of the code, the member concerned will lose his seat in the National Assembly.

³¹ Penal Code Chapter 87 of the Laws of Zambia

³² No. 12 of 2008

THE ELECTORAL ACT No. 12 OF 2006

Elections in Zambia are governed by this Act and the Local Government Elections Act Chapter 282 of the Laws of Zambia. Part VII of the Electoral Act defines corrupt and illegal practices and election offences. The Act defines a corrupt practice simply as an offence deemed to be a corrupt practice under the Act. The Act gives mandate to the Anti-Corruption Commission (ACC) to investigate and prosecute any corrupt practice committed during an election.³³ The Act further provides for penalties and sanctions against persons convicted of electoral malpractices.

THE JUDICIAL (CODE OF CONDUCT AMENDMENT) ACT No. 17 OF 2008

This Act derives from amendments to the Judicial (Code of Conduct) Act No. 13 of 2006 and Judicial (Code of Conduct) Act No. 13 of 1999. The Act is promulgated by Parliament pursuant to Article 91 Clause 2 of the Constitution of Zambia. The Act provides for the code of conduct for officers of the Judiciary and establishes the Judicial Complaints Authority, which is mandated to investigate allegations of misconduct against Judicial Officers.

THE PROHIBITION AND PREVENTION OF MONEY LAUNDERING ACT No. 14 OF 2001

This Act provides for the prohibition and prevention of money laundering, the constitution of the Anti-Money Laundering Authority and the Anti-Money Laundering Investigations Unit. It seeks to provide for the disclosure of information on suspicion of money laundering activities by supervisory authorities and regulated institutions, the forfeiture of property of persons convicted of money laundering, local and international

³³ Section 34 of the AC Act No. 38 of 2010

cooperation in investigations, prosecution and other legal processes of prohibiting and preventing money laundering.

THE BANK OF ZAMBIA ANTI-MONEY LAUNDERING DIRECTIVES 2004

The Bank of Zambia (BOZ) has issued Anti-Money Laundering Directives, 2004, made pursuant to Section 12(4) of the Prohibition and Prevention of Money Laundering Act NO.14 of 2001. The Directives require a regulated institution to put in place anti-money laundering measures and adopt such practices as are necessary for the detection and prevention of money laundering. A financial intelligence unit has also been established whose secretariat is based at the Bank of Zambia. The establishment of this unit will be governed by an Act of Parliament which is at Bill Stage. The Unit will be mandated to gather information about the financial affairs of entities of interest, to understand their nature and capabilities, and predict their intentions.

PUBLIC FINANCE ACT No. 15 OF 2004

The Act provides for the control and management of the public finances of the Republic of Zambia. The Act defines public moneys to include all revenues and all moneys raised or received for the purposes or benefit of the Republic and; all stamps, bonds, debentures and other securities raised or received by, on behalf of, or for the benefit of the Republic.

ZAMBIA DEVELOPMENT AGENCY ACT No. 11 OF 2006

This Act seeks to foster economic growth and development by promoting trade and investment in Zambia through and efficient, effective and coordinated private sector led economic development strategy, and establishes the Zambia Development Agency a one-stop investment facilitation centre which will, among other things, streamline bureaucratic procedures and requirements faced by investors. The Act also prescribes procedures for privatization of state owned enterprises.

OBSERVATIONS

The legal framework has many laws and regulations which provisions can foster anti-corruption. However, there existed disharmony in the definitions and inadequate applicability of the provisions relevant to anti-corruption in the very different laws or instruments. In this vein, whistleblowers are now protected under the law. Notwithstanding this development, the legal framework lacks redress for those who are falsely complained against. There are legal reforms being undertaken with a bearing on anti-corruption. An example is the Anti-Money Laundering Act.

There is still need to enhance and harmonise anti-corruption laws and regulations; review and enact relevant legislation; and domesticated provisions in international instruments.

3.2 INSTITUTIONAL FRAMEWORK

The institutional framework for anti-corruption in Zambia comprises of law enforcement agencies, oversight institutions and other institutions; political socio-economic programmes and institutional reforms. The following are the law enforcement agencies and oversight institutions that contribute to the fight against corruption:

LAW ENFORCEMENT AGENCIES

a) The Anti-Corruption Commission

The Anti-Corruption Commission (ACC) is the main body tasked to combat corruption in Zambia. The mandate of the ACC under section 6 of the AC Act is provided as follows: prevent and take necessary and effective measures for the prevention of corruption in public and private bodies; initiate, receive and investigate complaints of alleged or suspected corrupt practices, and, subject to the directions of the Director of Public Prosecutions, prosecute offences the Act; and such other offence under any written law; investigate any conduct of any public officer which, in the opinion of the Commission,

may be connected with or conducive to corrupt practices; be a lead agency in matters of corruption; co-operate with other institutions authorized to investigate, prosecute, prevent and combat corrupt practices so as to implement an integrated approach to the eradication of corruption; consult, co-operate and exchange information with appropriate bodies of other countries that are authorized to conduct inquiries or investigations in relation to corrupt practices; and do all such things as are incidental or conducive to the attainment of its functions.

b) Zambia Police Service (ZP)

The Zambia Police is a body tasked to provide law and order. Part VII, Article 103 of the Constitution of Zambia establishes the Zambia Police Force, and Chapter 107 of the Laws of Zambia cited as the Zambia Police Act provides for the organisation, functions and discipline of the Zambia Police.

c) Drug Enforcement Commission (DEC)

The Drug Enforcement Commission (DEC) is the body tasked to control the importation, exportation, production, possession, sale, distribution and use of narcotic drugs and psychotropic substances. The DEC is established by the Narcotic Drugs and Psychotropic Substances Act Chapter 96 of the Laws of Zambia and is, by provisions of the Act, a department under the Ministry of Home Affairs and operates under the control and supervision of the Minister of Home Affairs. The DEC hosts the Anti-Money Laundering Authority and Anti-Money Laundering Investigations Unit, which is an inter-agency unit tasked with combating money laundering in Zambia, under the Prohibition and Prevention of Money Laundering Act (Act No. 14 of 2001).

d) Director of Public Prosecutions (DPP)

The Director of Public Prosecutions is mandated to:

- 1) institute and undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence alleged to have been committed by that person;
- 2) to takeover and continue any such criminal proceedings as may have been instituted or undertaken by any other person or authority; and
- 3) to discontinue, at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by himself or any other person or authority.

OVERSIGHT INSTITUTIONS

a) The Office of the Auditor General

Part X, Article 121 of the Constitution of Zambia establishes the Office of the Auditor General. The Office of the Auditor General monitors expenditure of public resources with respect to the purposes for which Parliament appropriated them. The mandate of the Office of the Auditor General can extend to any non-governmental agency that has received public funds.

b) The Public Accounts Committee of the National Assembly

The Public Accounts Committee of the National Assembly is a sessional committee appointed under the Standing Orders of the National Assembly. The committee examines the financial management of accounting officers of the public service, state owned enterprises and statutory institutions, whose accounts are audited by the Office of the Auditor General.

c) Commission for Investigations

The Commission for Investigations or Ombudsman as it is commonly known was established pursuant to Article 90 of the Constitution of Zambia. The Commission for Investigations Act, CAP 39 of the Laws of Zambia provides for the Commission's power

and functions. The Commission has jurisdiction to inquire into the conduct of any person to whom the Act applies in the exercise of his/her office or authority or in abuse thereof.

d) The Police Public Complaints Authority

The Police Public Complaints Authority is established under section 57 B of the Zambia Police Act through an amendment effected by Act No. 14 of 1999, and subsequently the Zambia Police (Amendment) Act No. 15 of 2008. The powers of the Authority as provided in section 57H of part XA are to investigate all complaints referred to it by: an aggrieved person directly affected by police action; association acting in the interests of its members; and, a person acting on behalf of an aggrieved person, body or organisation.

e) The Judicial Complaints Authority

The Judicial Complaints Authority is a Government institution established in 2002 by the Judicial (Code of Conduct) Act No. 13 of 1999 as amended by the Judicial (Code of Conduct) Act No.13 of 2006 and the Judicial (Code of Conduct) Act No. 17 of 2008. The Code of Conduct is promulgated by Parliament pursuant to Article 91 clause 2 of the Constitution of Zambia. The Authority enforces the Code of Conduct. It is mandated to investigate allegations of misconduct against Judicial Officers.

f) Public Procurement Authority (PPA)

Public Procurement Authority (formerly the Zambia National Tender Board (ZNTB)) which has the role of regulating and overseeing procurement of goods and services for the public service, state owned enterprises and statutory institutions. The PPA is established under the Public Procurement Act No. 12 of 2008. The Authority regulates its own procedure but members must declare private interests if they participate in any meeting related to such interest and such disclosure must be recorded in the minutes. The

Authority has the power to surcharge any government employee who causes financial loss due to recklessness, misconduct, or willful default to follow procedures laid down in the Act with the amount of the loss being recordable from such person's emoluments.

PROGRAMMES AND INSTITUTIONAL REFORMS

The Government introduced programmes for institutional reforms that include:

- 1) The Public Service Reform Programme (PSRP);
- 2) The National Capacity Building Programme for Good Governance in Zambia (NCBPGGZ);
- 3) Poverty Reduction Strategy Paper (PRSP); and
- 4) The Sixth National Development Plan (SNDP), 2011-2015

CHAPTER FOUR

4. BACKGROUND TO THE FIGHT AGAINST CORRUPTION : THE NATIONAL ANTI-CORRUPTION POLICY AND ITS IMPLEMENTATION PLAN

This chapter discusses the National Anti-Corruption Policy as a strategy in the effective fight against corruption in Zambia. The Anti-Corruption Commission is the main body mandated to spearhead the fight against corruption in Zambia. The commission receives and investigates complaints of alleged corrupt practices and subsequently prosecutes offenders of the crime. It is a prerequisite that consent is obtained from the Director of Public Prosecutions (DPP) before a case can be prosecuted in the courts of law. During the reign of the Late President Dr. Levy Mwanawasa, it was accepted by all that indeed political will was present in the fight against corruption. This was manifested by the appointment of the Task Force on Corruption with a specific mandate of investigating and prosecuting the suspected plunderers and to recover stolen national resources. Jurisprudence on the prosecution of some corrupt practices offenders is outlined hereunder.

4.1. BACKGROUND

Prior to independence, the fight against corruption was predominantly addressed from a legal perspective and to this end, the first law on corruption was the Prevention of Corruption Act of 1916.

The Prevention of Corruption Act of 1916 was to be cited together with the Public Bodies Corrupt Practices Act of 1889, and the Prevention of Corruption Act of 1906.

The legal provisions on corruption in post-independent Zambia were first contained in the Penal Code, Chapter 146, Chapter X. Section 56 of this legislation was concerned with

corruption offences by persons employed in the public service and did not cover corruption by or with private bodies or agents.

In 1973, a leadership code for leaders, which constituted Part IV of the Republican Constitution, was introduced. The leadership code, first schedule, Regulation 2, covered all persons in the service of the United National Independence Party (UNIP), the Government, local authorities, statutory corporations including institutions of higher learning, any Commission established by law, the Zambia Congress of Trade Unions and its affiliates earning above a certain income threshold. The leadership code was abolished in November, 2002.

The Special Investigations Team on Economy and Trade (SITET) was established in 1971. SITET was designed to investigate economic crimes in the country, and hence was concerned with issues of money laundering, illegal foreign currency dealings, smuggling and hoarding of commodities, among others. With the advent of economic liberalisation in 1991, SITET was abolished in 1992.

In 1980, the Corrupt Practices Act No. 14 of 1980 was enacted. This legislation made corruption an offence in both the public and private sectors. Further, it provided for the establishment of the Anti-Corruption Commission to spearhead the fight against corruption. The corrupt Practices Act was repealed in 1996, and replaced by the Anti-Corruption Commission Act No. 42 of 1996. This Act has had a further repeal and has been replaced by the Anti-Corruption Act No. 38 of 2010.

To assess the extent of corruption, the Government of the Republic of Zambia instituted a National Governance Baseline Survey in 2003. The findings showed that the causes of corruption in Zambia are perceived to include:

- a) Low salaries for public officials;
- b) Lack of transparent and accountable political processes;
- c) Poor economic policies, such as privatization;

- d) Lack of effective incentive mechanisms for public officials;
- e) Lack of an effective corruption reporting system;
- f) Lack of an independent and effective judiciary;
- g) Lack of an independent and effective media; and
- h) Cultural factors.

4.2. CASE LAW IN FIGHTING CORRUPTION

THE PEOPLE v. RICHARD SAKALA³⁴

The former State House Press Aid in the Chiluba regime, Richard Sakala pleaded not guilty before the Lusaka Magistrate Court to four counts of abuse of office. ³⁵In the first count, Sakala who was jointly charged with two others was accused of having abused his office when he was Chairman of the Presidential Housing Initiative (PHI) by registering three motor vehicles in his name. In the second count, Sakala was accused of ignoring the tender procedures when he awarded a building contract to a Zimbabwean Construction Company. In the third and fourth counts, Sakala was accused of converting a government Ono Linear Editing Suite and a Betacam SP Camera into personal property and abuse of office by diverting PHI money to pay for his associates' meals and lodging at Mulungushi Village Complex. Sakala was convicted and sentenced to five (5) years imprisonment with hard labor.

THE PEOPLE v SAMUEL MUSONDA³⁶

Samuel Musonda, a former Managing Director of the then State owned Zambia National Commercial Bank (ZANACO) was investigated for alleged abuse of his position between June 1998 to September, 2001, by paying out money that amounted to about US\$2.2 Million from a suspense debtors account in order to obtain property, wealth, advantage or profit directly or indirectly contrary to Sections 37(2) (a) and 41 of the Anti-Corruption

³⁴ (unreported) 2002 cited by F. Mutesa, *State of Corruption 2002 Report*, Transparency International, p.32

³⁵ Times of Zambia, dated 25th April, 2002, Headline "Sata arrested as ACC nabs Richard Sakala, p1"

³⁶ SS/99/2004

Commission Act.³⁷ On 10th October, 2006, judgment was delivered and Mr. Musonda's house which had been bought using funds indirectly drawn from the suspense debtor's account and was seized by the Task Force on corruption during investigations, was advertised for forfeiture and it was eventually forfeited to the State upon Mr. Musonda's conviction.³⁸ However, Mr. Musonda challenged the forfeiture which resulted into his possession of the said house.

THE PEOPLE v. CHRISTOPHER SINGOGO³⁹

This case involved the former Zambia Air Force Commander, General Singogo who was charged with abuse of authority of office contrary to Section 99 of the Penal Code.⁴⁰ The accused was alleged to have abrogated institutional tender procedures when he procured two (2) generator sets using public funds with a total valued of over K100 Million and later diverted the said generators to personal use. The court convicted the accused to four (4) imprisonments with hard labour. However, an appeal is lying in the High Court for Zambia against this conviction and sentence.

THE PEOPLE V GESHOM MUMBA⁴¹

The case of Geshom Mumba, former Chief Executive at Development Bank of Zambia was convicted for abuse of office by the Lusaka Subordinate Court.⁴² Mr. Mumba was convicted following investigations launched by the Anti Corruption Commission. Mr. Mumba was ordered to pay K1 million within seven days and was sentenced to nine months imprisonment suspended for twelve months.

³⁷ No. 42 of 1996

³⁸ The People v. Samuel Musonda SS/99/2004

³⁹ (unreported) 2008

⁴⁰ Chapter 87 of the laws of Zambia

⁴¹ (unreported) 2002 cited by F. Mutesa, State of Corruption 2002 Report, Transparency International, p.31

⁴² Zambia Daily Mail dated 13th February 2002

THE PEOPLE V MAXWELL MWAMBA⁴³

The Mayor of Luanshya, Maxwell Mwamba was arrested for allegedly stealing money from the local authority. He was alleged to have embezzled the Council out of millions of kwacha through falsification of imprest receipts. The invoices showed that Mr. Mwamba incurred a bill of K100, 000 for laundry charges when the motel where he lodged did not have laundry facilities. The Mayor was said to have spent K1 million for all the three trips but instead presented a receipt of K14 million and he claimed to have spent from his own pocket.

4.3 THE NATIONAL ANTI-CORRUPTION POLICY (NACP)

The policy identifies the institutionalism of integrity programmes in both public and private institutions through the establishment of Integrity Committees, as a good implementable strategy to enhance good governance. It identifies and provides for the need for co-ordination and harmonization of the various good governance reforms and programmes apart from providing for re-orientation and strengthening of governance institutions. The Chief end of the policy is to achieve a significant reduction in the levels of corruption to match with the efforts and financial resources which have to be spent to curb the scourge. The policy provides for effective and acceptable legal, institutional and social interventions.

The fight against corruption in Zambia is still beset with problems despite the existence of the legal framework with the operating institutions. ⁴⁴ These problems are two folds:-

- a) Although law enforcement agencies and oversight institutions in Zambia refer cases to each other, most often they operate in isolation of each

⁴³ (unreported) 2002 cited by F. Mutesa, State of Corruption 2002 Report, Transparency International, p.32

⁴⁴ National Anti-Corruption Policy, p.11

other, and follow-ups and systematic co-ordination and collaboration of their efforts is weak; and that

- b) Law enforcement agencies and oversight institutions 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 specialized skills. In addition, most of the institutions do not have the requisite material resources needed to effectively exercise their public service responsibilities.

In an effort to overcome the above identified institutional weaknesses, the Government introduced programmes for institutional reforms and these include:-

- a) The Public Service Reform Programme (PSRP);
- b) The National Capacity Building Programme for Good Governance in Zambia (NCBPGGZ);
- c) Poverty Reduction Strategy Paper (PRSP); and
- d) The Fifth National Development Plan (FNDP), 2006-2010 (now The Sixth National Development Plan (SNDP), 2011-2015 launched in February 2011).

The above stated are institutional reforms and programmes that target accountability and transparency and efficiency in delivery of public services, hence it is acknowledged that the anti-corruption measures in these reforms and programmes need to be prescribed within the Anti Corruption Policy Framework.

The policy aims to have a nation and its people that are zero tolerant to corruption. The current legal and institutional framework and social context do not march the aspirations for a corrupt free society. This is due to lack of a central unifying and harmonizing framework that can act as the national agenda for action.⁴⁵ It is hoped that the harmonized and coordinated actions against corruption outlined in the policy will lead to

⁴⁵ National Anti-Corruption Policy, p.17

poverty reduction; good governance; improved citizens access to public services; respect for human rights; respect of positive traditional values; effective and efficient government delivery social services to the citizens; and promotion of socio-economic and political development. ⁴⁶

The policy is thus founded on the following principles:⁴⁷

Constitutionalism and the Rule of Law

This requires compliance with the provisions of the constitution, and other laws of the Republic of Zambia, in a manner safeguarding basic human rights and freedoms.

Leadership

A committed leadership of unquestionable integrity is a precondition for good governance and for achieving zero tolerance to corruption.

Ethics and ethical conduct

Ethics and ethical conduct is a moral and social norm that requires doing more than complying with laws and regulations, to doing what is right with emphasis on good or goodness in conduct. This is in line with what an organized group determines for itself and expects its members to comply with and uphold.

Fight against corruption is universal

This is the duty and responsibility of every person of any gender, age, creed or orientation, and institution-private and public, as the effects of corruption are not discriminatory.

⁴⁶ National Anti-Corruption Policy, p.17

⁴⁷ National Anti-Corruption Policy, pp. 17-18

Fight against corruption is a partnership

This demands development and involvement of strategic partnerships and alliances forming integrity networks that facilitate co-ordination of the activities of all the bodies and stakeholders; exchange of relevant information among major stakeholders; and provision of assistance to one another.

Fight against corruption demands consistency

This entails ensuring effectiveness in implementation of measures against corruption through continuous oversight; review of the performance of the corruption prevention measures; and making regular proposals on enhancing the effectiveness of the measures to the institution that has the authority to carry out these measures.

OBJECTIVES OF THE POLICY

The policy has defined the objectives at the legal, institutions and social levels. This has been done as follows⁴⁸:-

a) LEGAL LEVEL

- i) To harmonise and strengthen anti-corruption laws and regulations
- ii) To review and enact relevant legislation in the fight against corruption
- iii) To domesticate provisions in international protocols

⁴⁸ National Anti-Corruption Policy, p.19

b) INSTITUTIONAL LEVEL

- i) To provide a mechanism for the coordination of anti-corruption programmes in government agencies, private sector and within non-governmental agencies, private sector and within non-governmental organizations
- ii) To enhance transparency and accountability in the exercise of public authority.
- iii) To streamline cumbersome bureaucratic and complex procedures in public service delivery
- iv) To strengthen human, financial and material resource capacity in anti-corruption institutions
- v) To build capacity and motivate public service employees
- vi) To mainstream anti-corruption interventions in the routine business of government agencies and the private sector

c) SOCIAL LEVEL

- i) To develop, review, coordinate and implement social mechanisms for anti-corruption fight.
- ii) To develop programmes that counter cultural aspects and traditional customs that promotes corruption.

In order for the above outlines objectives to be achieved, measures have been put in place in line with the set out objectives at all the three (3) levels. Thus, at the legal level, the ministry responsible for justice, in collaboration with the institution responsible for the fight against corruption, will be responsible for providing the framework for harmonizing and strengthening anti-corruption laws and regulations. The ministry responsible for justice, in collaboration with the institution responsible for the fight against corruption

will be responsible for providing the framework for reviewing and enacting legislation in the fight against corruption. The ministry responsible for justice and ministry responsible for foreign affairs, in collaboration with the institution responsible for the fight against corruption will be responsible for providing the framework for ratifying and domesticating provisions in the international instruments to which Zambia is a state party.

As the institutional level, the cabinet office and the institution responsible for the fight against corruption will be responsible for reviewing procedures in public service delivery and training thereof and also for developing and implementing a framework for the Anti-Corruption Commission (ACC) to facilitate inter-agency coordination of corruption prevention programmes. The ACC will also implement a Corruption Prevention Partnership Organisation Programme. The ACC will be responsible for training of integrity committee members in collaboration with cabinet office and the ACC will also collaborate in the development and implementation of corruption prevention programmes by Integrity Committee Members.

At the social level, the ACC, in collaboration with the ministry responsible for education, provincial administration and corruption prevention partnership organizations will develop mechanisms for enhancing integrity and moral values in society, review, coordinate and implement social mechanism in the fight against corruption.

THE IMPLEMENTATION FRAMEWORK

The implementation framework will be in line with the general policy vision of the nation.

The ACC is the lead agency on the policy's implementation strategy, and will report as set out in the guidelines by cabinet office. The ACC in collaboration with cabinet office

will be responsible for efficient and effective implementation, coordination, monitoring and evaluation of the policy.

There will be instituted in every government agency integrity committees that will be responsible for internal corruption prevention, in order to ensure that individual organizations are responsible for corruption prevention in their respective organizations.

The government will enforce and enact or amend where necessary laws and procedures that support the fight against corruption. Further, it will review, strengthen and amend weak laws that do not contribute effectively to the fight against corruption and also review and harmonise laws, definitions, and practices to be in line with regional and international instruments, protocols and conventions that promote the fight against corruption.

Government will also develop and implement a monitoring and evaluation system for the implementation of the policy; adopt a standard monitoring and evaluation system for all activities that will be implemented under the policy; and ensure that every unit or institution taking part adopts the monitoring and evaluation mechanism.

The Government of the Republic of Zambia has committed itself to funding the implementation of the policy, and in addition, will mobilize resources from both internal resources-private sector and external resources-cooperating partners and secretariats of international conventions to which Zambia is state party.

4.4 THE NACP IMPLEMENTATION PLAN

The period for implementation of the policy is five (5) years from the time of adoption. It is envisaged that the successful implementation of the policy will require the concerted efforts and commitment of every Zambian at every level.⁴⁹ The NACP therefore presents

⁴⁹ NACP Implementation Plan

a challenge as well as an opportunity to every Zambian to meaningfully contribute to improving governance of Zambia.⁵⁰ The NACP plan shall be undertaken by the government of the Republic of Zambia with the participation and involvement of all the institutional stakeholders in the public sector, private sector, and civil society. A national joint NACP implementation framework constituting law enforcement, oversight and other agencies key to effective implementation of the NACP shall be constituted. The framework shall constitute:-

- a) National Steering Committee, and
- b) Technical Committee. The technical committee shall further comprise technical sub-committees at each level of the NACP implementation. Thus, there shall be constituted a legal technical sub-committee, an institutional technical sub-committee, and a social technical sub-committee.

The membership of the National Steering Committee on NACP implementation shall comprise:-

- a) Secretary to the Cabinet (chairperson);
- b) Heads of institutions of the Anti-Corruption Commission, Zambia Police Service, Drug Enforcement Commission, and Director of Public Prosecutions;
- c) Permanent Secretaries from Ministry of Finance and National Planning, Ministry of Home Affairs, Ministry of Justice, Ministry of Local Government, Ministry of Education, Cabinet Office-MDD, and Cabinet Office-PAC;
- d) Heads of institutions of the Commission for Investigations, Office of the Auditor General, Zambia Public Procurement Authority, and Zambia Revenue Authority; and
- e) Representatives of Public Accounts Committee of the National Assembly, Transparency International, Zambia Business Forum, Civil Society for Poverty Reduction, Law Association of Zambia, and Media Institute of Southern Africa.

⁵⁰ Foreword to the National Anti-Corruption Policy by Rupiah B. Banda, President of the Republic of Zambia.

The membership of the Technical Committee on NACP implementation shall comprise management and technical personnel from the institutions represented in the National Steering Committee. The Technical Committee shall be an assembly of the technical sub-committees and, the head of the Anti Corruption Commission shall be the chairperson. Membership of the committees may change depending on circumstances.

Cabinet Office shall be responsible for overall monitoring of the National Anti-Corruption Policy implementation Plan, whilst the Anti-Corruption Commission shall be the agency mandated by Cabinet Office to carry out day to day monitoring of the Implementation Plan. Monitoring of the implementation plan will be done by way of objective verifiable indicators identified in the monitoring and evaluation framework to be instituted at the ACC. The indicators will provide a means of establishing what will change or be delivered in the implementation of the NACP, and how much of the phenomena will be changed or delivered, who will change it and for whom.

The monitoring and evaluation institutional framework to be instituted at the ACC will be responsible for:-

- a) Quarterly reviews of the National Anti Corruption Implementation, and with reports thereof submitted to Secretary to Cabinet through ACC;
- b) Mid and end – term review of the NACP Implementation Plan, and,
- c) An impact assessment at the end of programme implementation.

4.5 KEY ACTIONS TOWARDS IMPLEMENTATION OF THE NATIONAL ANTI CORRUPTION POLICY (NACP)

LEGAL LEVEL

With reference to the output which indicates the harmonization and strengthening of the legal framework, the Anti Corruption Commission Act No. 42 of 1996 has been repealed

and replaced by the Anti Corruption Act No. 38 of 2010. The laws governing the private sector are also under recommendation for review. These include the Zambia Public Procurement Act, Town and Country Planning Act, Public Roads Act, Local Government Act, and Liquor Licensing Act. The enactment of the new legal framework for anti corruption has taken course. This is manifested through the enactment of the Public Interest Disclosure (Protection of Whistleblowers) Act;⁵¹ Forfeiture of Proceeds of Crime;⁵² Plea Negotiations and Agreements Act;⁵³ and the National Prosecution Authority Act.⁵⁴

Relevant provisions in international instruments to which Zambia is a state party have been domesticated into national law. Examples are: - the requirement contained in the United Nations Convention Against Corruption (UNCAC) which obliges states parties to implement a wide and detailed range of anti corruption measures with the aim to promoting the prevention, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange, and mechanisms for implementation, has resulted into the enactment of the Forfeiture of Proceeds of Crime Act.⁵⁵ New provisions have also been introduced in the new Anti Corruption Act⁵⁶ which emanate from those outlined in the UNCAC. These provisions include:-

- a) Section 24-Corruption of witness;
- b) Section 25- Corrupt practices by, or with foreign public official;
- c) Section 26- Corruption relating to sporting events;
- d) Section 27- Conflict of interest;
- e) Section 30- Obstruction of justice;
- f) Section 32- Coercion of investor;
- g) Section 33- Corrupt acquisition of public property and revenue; and

⁵¹ No. 4 of 2010

⁵² No. 19 of 2010

⁵³ No. 20 of 2010

⁵⁴ No. 34 of 2010

⁵⁵ Anti-Corruption Act No. 38 of 2010

⁵⁶ No. 38 of 2010

h) Section 35- Concealment of Property.

The Technical Committee at this level so formed comprises representation from the Ministry of Justice; Drug Enforcement Commission; Zambia Police Service; Law Development Commission; Zambia Public Procurement Authority; Anti Corruption Commission; and the Law Association of Zambia. It has been observed that the implementation at this level may not be effectively undertaken due to members' inability to convene whenever called upon to do so. This has somewhat been attributed to lack of finances.⁵⁷

INSTITUTIONAL LEVEL

The NACP Implementation Plan Technical Committee has been formed which comprises representation from the Zambia Business Forum; Director of Public Prosecution; Ministry of Justice; Ministry of Local Government and Housing; Auditor General's Office; Cabinet Office- PAC; Zambia Police; DEC; Cabinet Office- MDD; ACC; ZRA; Judicial Complaints Authority; Police Public Complaints Authority; Commission for Investigations; Public Service Management Division; and the Ministry of Finance and National Planning.

A declaration (Memorandum of Understanding) has been developed and signed by the Governance and Law Enforcement institutions with an aim to enhance coordination of corruption prevention programmes in government agencies, private sector and within non-governmental organizations. The declaration identifies areas of collaboration among the institutions with a view to enhance coordination and performance. In this vein, issues of anti corruption in public service delivery have been included in the Sixth National Development Plan (SNDP).

⁵⁷ Source: Interview with Ms. Etambuyu Mwenda, Acting Senior Legal and Prosecutions Officer, ACC Headquarters.

In achieving the output aimed at streamlining cumbersome bureaucratic and complex procedures in public service delivery, some Ministries, Departments and Agencies (MDAs) have been selected where public service delivery procedures and service charters are to be developed. Furthermore, in ensuring that corruption prevention is mainstreamed in the routine business of government agencies and the private sector, a selection of MDAs has been done where additional Integrity Committees are to be established. The formation of the ICs was an initiative as far back as the year 2006 following the findings of the National Governance Survey of 2003 which showed high levels of corruption in the institutions where these committees were established.

In the year 2006, ICs were established as a pilot project at ACC; Zambia Revenue Authority (ZRA); Zambia Police (ZP); Ministry of Lands; Lusaka City Council; Immigration Departments; Public Service Pensions Fund; and Ndola City Council. In 2008, ICs were formed at the Livingstone City Council; Kitwe City Council; National Registration, Citizenship & Passport Office; Road Transport and Safety Agency (RTSA); and the Judiciary. In the year 2010, ICs were established at the Pensions & Insurance Authority (PIA); Citizenship Economic Empowerment Commission (CEEC); National Institute for Public Administration (NIPA); National Road Fund Agency (NRFA); and Konkola Copper Mines (KCM). As a measure to ensure coordination in the prevention of corruption, the formation of ICs will continue as well as running of managerial accountability workshops which is the core function of the Corruption Prevention Department at the Anti Corruption Commission.

SOCIAL LEVEL

The critical aspect at the social level is the dissemination of the NACP and its Implementation Plan. A review and coordination of social mechanisms in the fight against corruption is underway. So far, the learning content materials and human resource needs have been identified for middle, lower and upper basic levels of school. The Civil Society Organisations with the help of the Swedish Cooperative Centre, SAVE the

Children and Diakonia have started developing best practice manual for sector level anti corruption policies.

It is hoped that when the NACP through its Implementation Plan is effective the levels of corruption should reduce. It is also hoped that once the NACP is implemented, corruption prevention will have been mainstreamed in all institutions. A national survey will have to be conducted in order to have empirical evidence on the prevalence of cases of corruption in Zambia and weigh the effectiveness of the NACP.⁵⁸

⁵⁸ Source: Mrs. Kayobo Ng'andu, Director Corruption Prevention and Community Relations, ACC Headquarters.

CHAPTER FIVE

5. CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSIONS

The research paper undertook to explore the effectiveness of the National Anti-Corruption Policy as a strategy in the fight against corruption in Zambia. The formulation and adoption of the NACP has been seen as a step ahead in ensuring a holistic approach to the fight against corruption. The NACP is a guide available to all citizens who will ensure effective measures are put in place at legal, institutional and social levels which will work towards the prevention and total eradication of the scourge of corruption both in the public and private sector. This approach is a clear departure from the traditional approach in fighting corruption whereby the Anti-corruption Commission and other agencies relevant in the fight against corruption concentrate on the prosecution of offenders. The approach undertaken through the NACP in combating corruption is a more favourable and embracing one in that everyone is a player in this noble cause. In this vein, the formulation of the NACP did involve wide consultations through National Provincial and other consultative workshops with all key stakeholders in order to achieve a policy which is responsive to the needs and aspirations of the nation.

The Anti-Corruption Commission as a lead institution in combating the corruption scourge will now not concentrate on prosecution, but intensify efforts at preventing corruption. This has manifested itself in the implementation plan in which are contained outputs upon which key action is undertaken in order to have the intended objective at all the three levels i.e. legal, institutional and social, achieved.

There is seen to be enhanced coordination and performance amongst law enforcement agencies in the fight against corruption as the NACP provides, and by virtue of having signed a declaration to this effect, it is clear indication of increased collaboration amongst the various law enforcement institutions.

The review of relevant legislation is also a step ahead in the fight against corruption. This is evident through the repeal of the Anti-Corruption Commission Act No. 42 of 1996 and replaced by the Anti-Corruption Act No. 38 of 2010. One of the major achievements of the repeal of the Act is the aspect of bringing the provisions of the Act into conformity with the provisions of the regional and international conventions to which Zambia is a state party. The new Act has taken care of the asset recovery provision which is contained in the United Nations Convention against Corruption. The provision relating to obstruction of justice in the Anti-Corruption Act will go a long way in ensuring effective criminal justice delivery by the Judiciary as perpetrators of corruption in the administration of justice will have the wrath of the law. Much as Section 37 of the ACC Act No. 42 of 1996 has been removed from the new Act, there is no serious gap in as far as the fight against corruption is concerned. Section 37 rendered an accused person to provide an explanation towards his/her being in possession of some property. This aspect has been effectively catered for in the Forfeiture of Proceeds of Crime Act No. 19 of 2010 as well as Section 33 of the Anti-Corruption Act No. 38 of 2010. This particular section provides for the prosecution of people who corruptly acquire public property and revenue. Section 99 of the Penal Code Chapter 87 of the Laws of Zambia also provide for the prosecution of people who abuse public office.

The NACP will enhance awareness on the evils of corruption through the many programme lined up with Civil Society. Special attention on public education has taken course through the involvement of Chiefs all over the country. This is being done in order to avoid certain activities in the various Chiefdoms which promote corrupt practices.

The NACP has further necessitated the enactment of the Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2010. Under this piece of legislation, the vision of the African Union Convention against corruption has been addressed. This convention required that state parties to the convention adopt legislative and other measures to protect informants and witnesses in corruption and related offences,

including protection of their identities and to adopt measures that ensure citizens report instances of corruption without fear of reprisals. The enactment of the law on the protection of whistleblowers is a positive move in the fight against corruption in Zambia.

At the institutional level, the NACP has necessitated the signing of a Declaration or Memorandum of Understanding among law enforcement institutions. This declaration has actually identified areas of collaboration amongst these institutions which will enhance coordination and performance. The evidence of NACP interventions in the Sixth National Development Plan (SNDP) is also a positive move in the right direction as it is clear that the Government is now actively involved in fighting corruption. The SNDP contains anti-corruption in public service delivery intervention.

5.2. RECOMMENDATIONS

LEGAL LEVEL

In an effect to harmonise and strengthen the anti-corruption legal framework, some laws which govern the private sector and which are being reviewed and amended need to incorporate anti-corruption provisions. Laws such as the Zambia Development Agency Act, Companies Act, Citizens Empowerment Act and the Banking and Financial Services Act need to be urgently reviewed and amended so that the vision of the NACP is quickly achieved. There is also need to review and amend laws governing public licensing, government procurement contracts and other public undertakings. In this vein, there is need for quick attention towards the Zambia Public Procurement Act, Town and Country Planning Act, Public Roads Act, Local Government Act and Liquor Licensing Act.

The need to apply administrative options by the employer or administrative tribunals as a necessary alternative to Criminal Law in restraining abuse of official discretion is a positive move. This need arises through the referrals or recommendations by Integrity Committees. Therefore, the guidelines for applying administrative options need to be developed promptly so that the NACP objective is achieved in record time. A baseline

study needs to be undertaken on these referrals and recommendations of use of administrative options made by ICs to the ACC. By doing this, it is hoped that there would be a 75% increase in referrals or recommendations to the ACC.

In the area of enacting new legal framework for anti-corruption, there is need to put in place new legal framework which will regulate electoral competition and resource mobilization. The domestication of relevant international and regional instruments in the fight against corruption as embraced by the NACP needs to be systematically achieved. To this end, there is need to put in place some guidelines or a framework for such domestication of instruments to which Zambia is a state party. Once these guidelines are developed, they should be communicated to anti-corruption partner institutions.

INSTITUTIONAL LEVEL

In an effort to enhance coordination of corruption prevention programmes in government agencies, private sector and within non-government organizations through the provisions of the NACP, the already signed declaration or memorandum of understanding need to be fully operational.. In the area of transparency and accountability in the exercise of public authority, there is need for the MDAs and Local Authorities to increase public administration accountability through ensuring adherence to public auditing guidelines and expenditure dissemination. There is also need to increase public administration accountability through enhanced citizen's monitoring of public expenditure by developing mechanisms that allows citizens to access public expenditure information. A process to streamline cumbersome bureaucratic and complex procedures in public service delivery needs to be implemented so that the system is not susceptible to corruption. In short, the likelihood of enticing one into committing the offence of corruption is being prevented.

It is also recommended that a strengthened human, financial and material resource capacity in anti-corruption institutions is developed. This will lead to an increase in the number of personnel with new investigations and prosecutions skills that emphasise

financial and asset tracing; and procurement analysis. Furthermore, the number of personnel with new investigations skills that include surveillance techniques and analysis will also increase. In addition, there will be an increase in the number of personnel with enhanced skills in corruption vulnerability assessment and anti-corruption programme development. An increase will also be recorded towards the number of personnel with enhanced skills in corruption prevention with emphasis on research skills, monitoring and evaluation. The Judiciary also needs to be strengthened in terms of human resource corruption prevention capacity so that citizens can have confidence in the Judiciary's handling of corruption cases. The revised pay policy need to be implemented so there is enhanced incentive mechanisms to build capacity and motivate public service employees.

When corruption prevention is mainstreamed in the routine business of government agencies and the private sector, integrity committees' establishment will continue with sector specific strategies containing NACP measures. The mainstreaming of corruption prevention will ensure the use of ethical and administrative codes of conduct that prohibit conflicts of interest in exercise of public authority.

SOCIAL LEVEL

In order to review and coordinate social mechanisms in the fight against corruption, there is need to increase citizens' knowledge of reporting cases of corruption to government law enforcement agencies. In doing this, guidelines on reporting corruption should be made available to citizens so as to be responsible to citizens' needs. Citizens will also be knowledgeable as to what corruption. There is need for financial and material support to civil society organizations that promote integrity and anti-corruption within communities and citizen participation in the fight against corruption. The community needs to be aware of corrupt practices before, during and after elections through enhanced community awareness programmes.

In countering cultural aspects and traditional customs that promote corruption, there is need to increase in the ratio of traditional rulers involvement in social mobilization

against corruption to those not involved. Consultative meetings with traditional rulers need to be conducted as well as developing a framework for traditional rulers' involvement in anti-corruption. There is also need to enhance community/citizen's capacity to counter cultural and traditional aspects which promote corrupt practices.

Over and above, the formulation and adoption of the Anti-corruption Policy in Zambia will go a long way in ensuring an effective eradication of corruption in Zambia. It is hoped that at the end of the implementation plan period, levels and instances of corrupt practices should reduce. This will be evidenced by conducting a baseline study on the effectiveness of the National Anti-Corruption Policy. As a strategy in the fight against corruption, the NACP has made provision for systems and processes which are aimed at ensuring that corruption should not be tolerated and if anything, be prevented from occurring,. In doing this, every citizen of Zambia has been embraced and taken on board so that the fight against corruption is not left to law enforcement agencies only.

The Judiciary shall be seen to be handling corruption cases expeditiously and effectively as it has also been embraced by the NACP.

The government is the major player in this whole programme. Thus, it should ensure adequate and consistent funding towards the implementation of the NACP. Political will is cardinal in this area as it will remove the longtime perception that there is no political will in the fight against corruption in Zambia.

The NACP has come in as an effective tool in the fight against corruption as its provisions do not allow for an occurrence of a corrupt incident but it aims to prevent any such occurrence of corrupt practices. As a consequence, the fight against corruption is seen to have taken a different and integrated approach which is more effective. The relevant laws are also being reviewed and amended in order to be in conformity with the dynamic nature of the crime of corruption.

BIBLIOGRAPHY

BOOKS:

Jeremy Pope, ed, National Integrity Systems, the TI Source Book, Transparency International, Berlin, Germany, 1997.

Constance Kunaka, The SADC Protocol against Corruption, SAHRIT Harare, Zimbabwe, 2002.

F. Mutesa, State of Corruption 2002 Report, Transparency International.

PAPER PRESENTATION:

Peter J. Henriot in JCTR 2007 Series, 19th April.

Reuben Lifuka, Transparency International Zambia, President: Reflection on the fight against corruption in 2009, TIZ Information Centre.

NEWSPAPER ARTICLES AND REPORTS:

2008 Annual Report of the Directorate on Corruption and Economic Crime, Botswana

2008-2009 Annual Report of the Kenya Anti-Corruption Commission

Post Newspaper dated 30th August, 2010

Post Newspaper dated 17th December, 2007

Times of Zambia dated 25th April, 2002

Zambia Daily Mail dated 13th February, 2002

ORGANISATIONS:

Anti-Corruption Commission

Transparency International Zambia