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**THE EFFECTIVENESS OF ADMINISTRATIVE
AGENCIES IN A DEMOCRATIC STATE: THE
ANTI-CORRUPTION COMMISSION**

BY

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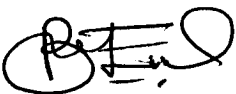
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**MR. E. MULEMBE
(SUPERVISOR)**

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DEDICATION

I dedicate this Obligatory Essay to my parents, Adrian and Mercy Bauleni, not forgetting my brothers and sisters, Susan, Kennedy, Noel, Barbara and Brenda.

CHAPTER ONE

INTRODUCTION

"After Independence, most African countries drifted shamelessly from a bureaucratic administration that emphasises good governance to one that emphasized the sovereignty of politics. This resulted in the emergence of a politicized bureaucracy in those countries, which began to engage in centralized economic decision making and patrimonialism. The new states were not only bureaucratic autocracies but also political and economic monopolies lacking in accountability, transparency and the rule of law. Thus the post – independence government bureaucracy that emerged in most African countries contributed to institutional instability, the politicization of the state and patrimonial economical management and incentives whereby clientelism replaced moral and political legitimacy and personal loyalty and obedience were than merit. This then was the genesis of corruption in Africa".¹

This essay attempts to discuss the role and effectiveness of the Anti – Corruption Commission in a democratic state (Zambia). The Commission is charged with the task of minimizing and preventing corruption in public and private institutions. The intention of the Commission is to prevent corruption or to arrest it in the early state.

Most African states have adopted democratic principles of governance, and Zambia is no exception. It became a democratic state with the Multi – Party election for the presidency and National Assembly that took place on 31st October 1991.²

At its simplest, democracy has often been defined as rule by the people (from the Greek demos kratos).³ There are several characteristics that can be assigned to democracy. (also highlighted in the preamble to the Zambian Constitution 1991). These include the following;

(i) Citizen participation and sovereignty of the people

Democracy values each and every individual person as a national, moral unit and recognizes the right to, and capacity for a measure of self-government. In this system, supreme power in the government is the key role of citizens. It is not only their right, but also their duty.

(ii) Equality before the Law

Democratic societies emphasize the principal that people are equal. Equality means that all individuals are valued equally have equal opportunities and may not be discriminated against because of their race, religion, ethnic groups, gender, political opinion and affiliation. In a democracy, individuals and groups still maintain their right to have different cultures personalities, language and beliefs.

(iii) Government based on consent of the people

The elections by which consent of the governed is given must be based on universal suffrage in which it is essential to elect as accurately as possible the opinion of as many people as possible, on who ought be their representative and how the country ought to be governed.

(iv) Political tolerance

This requires that majority to rule but respect must be given to the minority. Democratic societies should be politically tolerant, meaning that, while the majority of the people rule, the rights of the minority must be protected. People not in protest of citizens must also learn to be tolerant of each other.

(v) Accountability

Elected and appointed officials have to be accountable to the people. They are responsible for their actions. Officials must make decisions and perform their duties according to the will and wishes of the people and not for themselves. For a government to be accountable, the people must be aware of what is happening in the country and this is referred to as a transparent government.

(vi) Regular free and fair elections

One way in which citizens express their will is by electing officials to represent them in government. Democracy insists that these elected individuals are chosen and peacefully removed from office in a free and fair manner. Elections are held regularly and participation in elections must not be based on a citizens wealth for free and fair elections are held regularly and participation in elections must not be based on a citizens wealth. For free and fair elections to occur most adult citizens should have a right to stand for positions and obstacles should not exist which make it difficult for people to vote.

Moreover individuals standing for positions must not use corrupt practices in order for them to gain a vote from the electorate.

(vii) Accepting the results of elections

In democratic elections, there are winners and losers in an election believe so strongly that their party or candidate is the best one that they usually refuse to accept the results of the election. This is against democratic principles and the consequences of this may be a government, which is ineffective and may even result in violence, which is also against democracy.

(viii) The rule of law

This is perhaps, the foremost characteristic of democratic government, and one that is reflected in an institutional separation of powers. The rule of law militates against arbitrary power and makes possible executive not to interfere in the workings of the legislature and judiciary, and render promises about human rights to be in vain. The rule of Law encourages the developments of a political culture, both inside and outside government circles that will help bring about predictability to social behavior and so secure people's rights against one another and against state.

In order for the state to attain smooth operation of the government in accordance with the above democratic principles a number of administrative agencies have been created as government institutions to carry out these functions.

The very large administrative apparatus, which is required by the state, is vested with wide discretionary and other powers, which are wielded by the public service. The public service includes such institutions as the National Assembly, the Judiciary, the Police, the Parastatal and statutory boards commissioners, Governments Ministries and Departments and so on. These institutions and the people who can run them are responsible for regulating the various aspects of life in the nation. They make laws they run courts of law where justice is to be dispensed, they issue permits and licenses of all kinds, they raise taxes and decide how public revenue is to be distributed, they run the health institutions and many other facilities and undertakings.⁴

These are the people who are said to be in public life, and they wield a lot of power and authority. It is supposed that the temptation to use all this power and authority for private gain of benefit or for other wrong purposes is present in all human beings, but more so in those who, for one reason or another, do not possess sufficient personal integrity to deserve public office. Consequently, corruption and abuse of office in their various forms constitute a very serious loss of integrity in those who practice or succumb to them, hence the creation of the Anti – Corruption Commission and the need to fight corruption vigorously in a well strategies national anti – corruption effort.

Corruption is the enemy of stability, justice and good governance generally. High levels of corruption would tend to inhibit economic development, as investors would be deterred from investing in those countries where there is little or no respect for the certainty of the law. Corruption erodes the institutional capacity of public organs as procedures are disregarded, resources siphoned off and officials recruited and promoted other than on merit, qualification or expertise.⁵

The very legitimacy of governmental authority and democratic values can be severely undermined by this scourge. When citizens call for more accountable government, they are expressing their anger about corruption, which humiliates the poor by forcing them to bribe minor and sometimes major and empowers the partnership of unscrupulous public officials and captains of commerce.

NOTES

1. K. Ronald hope (snr) and Bornwell C. Chikulo (1962)
Corruption and Development in Africa – Lessons from country case studies.
2. The Constitution of Zambia 1991 – preamble
3. F.J.T Chiluba (1995) Democracy – the challenge of change. Multimedia Publications P.3
4. Ibid. pg. 4-5
5. Chief Justice Mathew Ngulube (2000) remarks at the inaugural session of the public discussion of the public discussion own series “promoting and protecting integrity in public life” published by the Anti – Corruption Commission.

CHAPTER TWO

BACKGROUND TO THE ESTABLISHING OF THE ANTI - CORRUPTION COMMISSION

The Anti - Corruption Commission came into being as a result of a number of numerous calls and meetings, requesting for a new law or the strengthening of the law on corruption.¹ A body to fight corruption was therefore called for as early as the 1970s. This was the time when the public started noticing that quite a few public officers had amassed a lot of wealth through dubious means. There was no way of making them account for the sudden richness.²

Prior to the enactment of the Corrupt Practices Act, CAP 14 of 1980, offences relating to official corruption were dealt with by the Zambian Police under the provisions of the Penal code CAP 146. The definition of who at the time was regarded as a public officer is stated in section 384 (2) of the Penal Code as follows:

“Any public officer or member of the defence force or any person serving under any local authority or under any other public body having power to impose rates or entrusted with the expenditure of any government funds or grants, and a member of any such local authority or other public body is an agent within the meaning of this chapter.”

Section 385 further defines a Corrupt practice as corruptly accepting any gift or consideration as an inducement or reward for doing any act in relation to his principal's affairs.

However, despite the offences being covered under the Penal Code just any other offence, there was a feeling in certain quarters of the society, that the law as it was could not adequately deter or crush corruption.³ The power given to the police under the code to fight corruption were inadequate. It was extremely difficult to successfully detect and prosecute offenders against the law on corruption. Both partners to the

offence are principal offenders. They are both willing partners to the act of corruption that is, the individual offering the bribe and the one receiving it. They both have a vested interest in ensuring that there is no evidence left to reveal the other person's involvement in the crime. There are invariably no independent witnesses to the act of corruption. Therefore it was difficult to secure a conviction for corruption in the law courts.⁴

In any case the police were already overburdened with cases of theft and robberies and other serious crimes, which were of immediate danger to the public. The commission was therefore established to strengthen the law and provide additional powers for investigation.

Once the law on corruption was strengthened it was felt that it would alleviate the burden of the police by establishing an investigations commission which would probe cases of corruption. For this purpose, section 4 of the Corrupt Practices Act established the Anti – Corruption Commission.

1. POLICY OF GOVERNMENT BEHIND THE INTRODUCTION OF THE CORRUPT PRACTICES BILL

The introduction of the Corrupt Practices Bill to Parliament was initiated by the National Council of UNIP resolutions at the 8th and 11th meetings of its National Council. Prior to this, a report on the establishment of one party state in Zambia by the Commission of Inquiry had recommended that an office of the ombudsman be established to investigate and prevent corruption in Zambia. At the National Council meetings, the delegates drew the attention of the nation to the problem of corruption and sought legislation, which would allow the state to take punitive action against those who were suspected of having accumulated wealth and property by dishonest means. The policy of the Government behind the introduction of the bill was to prevent corruption in the country by comprehensively defining acts, which may constitute corruption, and by providing in the bill for very severe penalties for anyone who will be found guilty of corrupt offences.⁵

In 1979, 17 cases were reported to the police within the first half of the year. In 1980, the cases reported to the police within the corresponding period represented an increase of 500% of corrupt practices.⁶ The Minister of Home Affairs, presenting the Bill on corrupt practices, urged the House to do something about it before the situation got it "was now".

The Minister stated that corruption was a pervasive evil which if allowed to continue unchecked would destroy the whole fabric of the humanistic society of Zambia, because an offer of a bribe, for instance, to a public officer may have serious consequences, which far exceed the monetary value of the bribe itself. Public funds would be wasted when a corrupted officer awards a contract at a grossly inflated price. He may accept sub – standard work or goods of inferior quality. If the goods are paid in foreign exchange, the loss would even be more serious and more severely felt. Heavy losses may occur where corrupt offices abuse the powers entrusted in them for the issue of permits and licenses for a fee or some other gratification.

However, the Minister continued that although rampant corruption had not yet gained root in Zambia, it was important to arrest it before it establishes its roots. If corruption was allowed to gain a foothold in our society, such an eventuality could spell real disaster to our developing country. In the minister own words;

"Corruption is the epitome of the exploitation of man by man. It is the exploitation of a public officer of the power entrusted to him by the people to be exercised for the common good."⁸

Therefore, effective measures were necessary to ensure that the public officer did not misuse the powers entrusted in him. The measures ought to give a clear indication to all who might be tempted to indulge in corrupt practices; that by doing so, they will almost certainly be detected, prosecuted and convicted. If convicted, they would face severe punishment.

The Bill sought to remedy the situation by the enactment of changes to augment the powers of investigation, to codify the various offences in logical sequence, to create

some new offences, to modify the existing rules of evidence and to provide realistically different sentences for convicted offenders.

2. PARLIAMENTARY DEBATES : COMMENTS BY MEMBERS OF PARLIAMENT DURING THE DEBATES

There was an interesting trend of thought during the debate on the proposed Corrupt Practices Bill. The Honorable Members were on face value supportive of the measures taken by the Minister of Home Affairs to propose a law that would fight corruption. But when one examines the gist of the debate, one would conclude that the honorable members were quite satisfied with the then present legislation provided for in the penal code.

However the members felt that before introducing the Bill in Parliament, some research should have been done. Chiefs, Villagers and citizens in the country should have been consulted, as corruption was in – born in human beings. It is thought to be in – born because there are certain traditions of offering gifts to chiefs and other notables in society. It was hence feared that the Bill would be seen to contradict such innocent actions. There were also fears expressed in relations to Clause 48 (2) of the Bill, which involved spouses. The clause states that the spouse of the accused, shall be a competent witness for the prosecution. There was fear amongst the members of parliament that such a move would wreak marriages.

There was a suggestion by Members of Parliament that corruption should not be confined to gifts only but that even those who misuse Government vehicles should be investigated as well. There were public servants with a number of vehicles. It was claimed that the police could not carry out their duties effectively due to lack of transport, hence public officers misusing Government transport were exploiting the public.

The Members of Parliament further alleged that there were some public officers who were in possession of about five government vehicles and that those officers misused the vehicles to the extent of giving them to their dependants. The practice was therefore, tantamount to corruption. Some members of the House expressed some

reservation regarding the appointment of the Deputy Commissioner. They felt the decision to appoint a deputy commissioner should not be left to the president; that the deputy commissioner should be of the same caliber as the commissioner; and that the position ought to be embodied in the Bill.

Despite the sentiments expressed above the, the Bill was supported by the majority members in the house. They felt that the Bill intended to look after the interest of the common man, and that it was in line with the philosophy of humanism which was against the exploitation of man by man. There was a general agreement amongst the members of parliament that the Bill sought to narrow the gap between the rich and the poor, and that if the situation was left unchecked the rich would perpetuate their corrupt tendencies to the detriment of the poor. Opposing the Bill was tantamount to encouraging class divisions in the society. The bill aimed at safeguarding the interest of the suffering majority and the control of evil forces of the few.

Other members of the house felt that the few that had been accused of corruption could not justify the introduction of the Bill. The establishment of the Anti-Corruption Commissioner would be constructed as having no confidence in the investigator General. There was no need therefore to form a commission of that nature. There was always a complainant of having no funds come from to establish and maintain such a commission. Investigations based on mere suspicions were not fair.

Some members of the house were of the opinion that there should be committees on corruption at places of work. The poor were going to be exploited under the Bill because when a rich man was suspected and possibly prosecuted he would be able to afford legal representation, whereas the poor would be left to the mercy of the prosecutors.

3. OPPOSITION TO THE INTRODUCTION OF THE BILL AND THE COMMISSION

Opposition to the introduction of the Bill came out more strongly during the debates in parliament. It seems to have been the only forum provided for anyone to support or oppose the introduction of the legislation on corruption.

Members of the house who opposed the Bill advanced quite convincing reasons in that they likened the proposed legislation to the Leadership Code. It seemed from the deliberations that the leadership code was considered to have failed lamentably. There were too many exceptions, which made the code ineffective. They felt that if the leadership code had been effective the need to legislate separately and distinctively on corruption would not have arisen.

The proposed legislation was considered to be oppressive and that the feeling of insecurity amongst public servants had brought about the corrupt tendencies. The public functionaries were underpaid in comparison with their qualifications. The introduction of the Bill was an indication that the executive had failed to enforce the law under the present legislation.⁹ The Member of Parliament for Matero put it more succinctly as follows:

"If a simple and straight forward criminal code has failed to be enforced what more a complicated 'Mumbo Jumbo' piece of legislation like the one in question"¹⁰

The Member of Parliament further stated that the law that was being proposed would turn the country into a police state and that the introduction of the Bill did not reflect well on the reputation of the party and its very able government.

An honorable member of the house quoted from a book by an India judge as follows:

"There is no antidote in the whole history of man against corruption other than (a) exposure (b) punishment."¹¹

Furthermore, the members felt that when the leadership is corrupt, it is difficult to enforce a law that would be effective because the problem started from the top. It would, therefore, be difficult to stamp out corruption because the people who are supposed to enforce the law are themselves the offenders of the law. There was a

feeling that the people who were supposed to be behind bars were aware of the rampant corruption in the system.

The members were of the opinion that if the situation was not arrested in good time, the Party and its Government would fall; and that if the Bill was going to be accepted in the house then the deliberations of the central committee should not be deliberations of the exempted from investigations. There was no need for the exemption because the source of power could be the source of corruption. It was suggested that the Bill should be thrown back for a re-appraisal. They further suggested that in the event of the Bill being passed the Anti – Corruption Commission should report to parliament in a similar fashion as the Auditor General (the Auditor General's reports on government expenditure which are tabled before parliament for approval) The members felt that the commission was too important an institution to be left to the mercy and manipulation of the executive, who could themselves be involved in corrupt practices.

There was a strong object to the provision in the bill for the officers of the commission to have access to the bank accounts of customers.¹²

The relationship between a banker and a customer was likened to that of a doctor and a patient or between advocate and client. It would, therefore, be immoral to provide access to bank accounts of customers to third parties. One of the reasons for the opposition of the Bill was that it concentrated on people with assets in Zambia. The investigation part of the commission would be centered around culprits with assets in Zambia.

The members were of the opinion that people who are involved in corrupt practices in a big way and that their actions would affect the economy of Zambia normally make such arrangements outside the country. It was felt that the Law on corruption as covered in the Penal Code Cap 146 Sections 384 – 388 was adequate and that what was required was stuck and fair enforcement of the Law in form that was beyond corruption. The problem of corruption practices in the country was not that people were corrupt, but that various factors such as inflation, and politicization of the whole civil service and the

parastatal sector. What the members wished to see was the strengthening of the then existing Law and ensuring that laid down procedures were followed.

The members wished to see that the state were properly constituted; Board of Directors Operating independently and that they should not be subject to outside influence in awarding contracts. They felt that the provisions in the Bill verged very dangerously on the rights of the people of Zambia.

The deliberations in parliament by the backbenchers brought out an apprehensive feeling towards the true intentions of the executive. The members were all in agreement that corruption was on the increase, but what they were apprehensive of were the methods to be employed, in the proposed legislation to arrest corrupt practices. There was an underlying feeling that the executive was going to use the legislation to suppress the public, and that some freedoms as enshrined in the Republican constitution were going to be infringed.

The corrupt practices Bill was passed by parliament in 1980 with an impressive majority of 82 'ayes' to 19 'noes'. However, as already outlined, the Bill was not passed without strong and convincing reservations about its infringement on human rights. However the members of parliament in the end gave their consent.

The Anti-Corruption Commission has been operational since 1982. At the commencement of operations the commission derived its authority from the Corrupt Practices Act No. 14 of 1980 as amended by Act No. 29 of 1997. The commission was then a Government Department headed by a commissioner who received his directives from the president.

In November 1996, after five years of Zambia being a democratic state, the government repealed the corrupt practices Act No. 14 of 1980 and replaced it with the Anti – corruption Commission Act No. 42 of 1996. The Anti – Corruption Act created an autonomous and strengthened institutions that was not to be “subject to the direction or control of any person or authority” The new Act became operational upon the

publication of the Anti – Corruption Commission Act (commencement) order 1997, statutory instrument No.33 of 1997.¹³

The Anti – Corruption Commission Act changed the structure of the institution creating a commission and a Directorate.

NOTES

1. National Council of UNIP – Resolutions 1976

National Council of UNIP – Resolutions 1977

Zambia National Commission on the establishment of a One – Party State (Lusaka Government Printers 1972) p.37 para 128

2. Eleventh meeting of UNIP National Council – Resolutions

3. The feeling were expressed by the members of the UNIP National at the Eleventh meeting

4. Expressed by A.J Mumba, Assistant Commissioner Anti – Corruption Commission February 1986.

5. Zambia Parliamentary Debates No.54, 29 July – 22nd August 1980 column 1079

6. Ibid. column 346 and column 1079

7. Ibid. column 1079

8. Ibid. column 1081

9. Penal Code CAP 146 SECTIONS 384 – 388

10. Zambia Parliamentary Debates No. 54 29 July – 22nd August 1980 column 1146

11. Ibid. column 1146

12. Section 12 CAP 14 OF 1980

13. Parliamentary Debates no. 53 – 29th July – 22nd August 1980, column 1315 – 1317

14. Anti – Corruption Commission Annual Report for the year 1999 pg.1

CHAPTER THREE

1. THE UNDERLYING CAUSES OF CORRUPTION

There are many causes of corruption including lack of transparency in government procuring and tendering procedures, weak checks and balances in government systems of financial control, low salaries, falling moral standards, lack of political commitment, and so on. In the countries that are prone to corruption, such as in most African countries, one lesson that has become clear is that corruption does not happen; it is caused. Whereas in the West, Multinational Corporations are the leading cause of corruption, in Third World countries it is government more often than not that is the leading cause of the vice. And what is particularly perturbing is that behind governments, societies have come to accept corruption as a way of life and even talk about it causally, as if it is not such a serious thing.

Personal greed is one of the reasons behind corruption in high places in Zambia. Cabinet Ministers who try to dodge their tax obligations do so in order to accumulate more, at the expense of the nation. If an honest inventory of those that have "given themselves housing stock" was undertaken, it will be found that people who were not even "sitting tenants" are the ones who have benefited from the government housing sale. Similarly, the privatisation exercise was turned into an opportunity for the wealthy and powerful in society to accumulate even more.¹

Lack of political commitment is another cause. Political commitment is essential to anti-corruption strategies. The bottom line is that the government should lead the war against corruption. Even though through the ACC, government pledged to scrupulously observe the principles of integrity, the practice has been quite different. Even since the coming into power of the MMD government, there has been a flaring lack of commitment by the government to deal with corruption. It is one of the major causes of corruption that government shows no clear commitment to fight the scourge because it acts as an incentive for the officials and others to be corrupt. This lack of political commitment is alarmingly reflected in the under funding of the ACC. For a long time

now, the ACC has been impoverished to the extent it can not operate effectively. Clearly, the funding of the ACC has not been one of our political priorities and as figures show, the ACC has never got what it has been asking for from government. This is eloquently supported as follows:

Year	Months	Budget Provision	Amount Released
1996	January -December	904,573,002	385,130,251
1997	January-December	810,523,002	542,647,533
1998	January-December	1,987,574,001	1,150,427,127
1999	January-December	1,759,479,009	2,335,659,125
2000	January-December	1,378,837,500	2,157,161,515

Apart from 1999 and 2000, the ACC never got what was promised it in the budget in the past ten years. In practice, this mean that it had to operate on a shoestring budget. The severe cut backs generated by the inability of the government to release the ACC allocations and to do so timely meant that corruption would not be investigated and tackled even if it came to the attention of authorities. The sudden increase in amount of money released in the last two years should not mislead. When it is realized that over the years, the rate of the Kwacha to the United States dollar has drastically fallen by over 1000%, it is clear that rather than representing an increase, the 1999/2000 budgets actually represent reductions. In real terms, the Commission got less in 1999/2000 than what it got in 1992 in spite of rapid increase in the volume of cases reported and therefore requiring follow-up.²

Another cause of corruption in Zambia is the extremely low rate of success of convictions of the corruption cases in court of law. Most of the cases the Commission has prosecuted were lost in courts. In some cases as low as 20% of the cases reported to the Commission reached prosecution. For example, in 2000, 403 complaints were reported to the Commission. Of these, only 49 were convicted, which represented 20.41%. The Director for Public Prosecution's (DPP) role in granting authority to prosecute has been one of the main obstacles towards the prosecution of offenders. Although the Drag Enforcement Commission does not have to go through the DPP to obtain permission to prosecute its cases, the ACC is required to get the DPP's authority.

The result has been that many complaints have not matured into prosecutions. The involvement of the DPP in the ACC's cases has only tarnished the integrity of the ACC in the sense that it yields only limited and inconsequential results. The ACC's own poor performance in the prosecution of cases is one of the major reasons behind the rise in cases of corruption. Criminals do not fear the ACC, let alone think about it when planning their behaviour. It does not bother the corrupt and would be corrupt that there is an ACC. No one can be scared of this low rate of successful prosecutions especially given the fact that most if not all of it really involves the so called "small fish."³

Zambia's moral fibre has been drastically corroded as a result of a patronising society. Consequently, the Zambian society is itself accused of abetting corruption. But in Africa, and Zambia in particular, it is not unusual for the public not to take the scourge. Many a times, the corrupt are regarded highly instead of disgracing them. A person who does not drive the latest Mercedes Benz car is viewed as a failure. Whereas the University Vice-Chancellor in Sweden can go to work by bicycle or by bus, no African Vice-Chancellor can accept such "insulting Conditions of Service"! No Judge or Permanent Secretary accepts conditions of service not including servants, security guards, personal to holder cars, free housing and so on. These are manifestations of a highly corrupt society where officials do not work unless "corrupted" with benefits.

Corruption is largely caused by society's patronising attitudes. Since society does not demand integrity and a high sense of probity, it follows that such values cannot be found in public or other service. It is society that can breed or stamp out corruption. Institutions of democracy such as the ACC are mere tools at the service of society. There is very little the ACC can do if society itself embraces the vice the Institution has been mandated to fight. Only a universal fight by society as a whole can make a difference.

Lack of democracy is another cause of corruption. A working democracy provides checks and balances. In Zambia, democracy is not working, which is one of the underlying causes of corruption. Politicians can do whatever they like and get away with it. The best example of this is the appointment in government of relatives and friends. Apart from this being corruption in itself, this is how corruption is caused.

Relatives and close friends are bound to exploit their relationships to their personal advantage knowing that nothing will happen to them in the event they are caught. The exploitation of democracy shows that Zambia is still at the primitive stage of the development of this concept.

Democracy is key to a stable society based on equity and fair play. There are a number of prerequisites that constitute democracy including accountability and transparency, as already indicated in the First Chapter. These two elements are closely related to anti-corruption initiatives and they must be discussed together. According to Schwella et al., 1996, accountability in its broadest sense is an obligation to expose, to explain and to justify actions. Accountability demands that public institution should be ready to answer the various questions the general public would like to raise. This way, corruption is minimised because everything about the institution, its actions and decisions, would be made public.⁴

Transparency, the other cornerstone of democracy is concerned with the extent to which the functioning of public sector institutions are open to the public to scrutinize. For example, there should be mechanisms to ensure that all public processes and programmes are opened to the general public and especially the media. This is where the press may play an important role. Transparency or openness and accountability can help minimise corruption.

The other cause of corruption is the complex and discretionary legislation. It is important that legislation be simple. The application of complex legislation has often led to unethical and corrupt conduct. Due to legislative complexity, members of the public are unlikely to question officials' conduct, which leaves the latter open to engage in corrupt interpretations and applications of the law. Examples of complex legislation in Zambia, which are a breeding ground for corruption are many. The tax legislation, for instance, apart from its complexity, leaves too much room to the discretion of officials. This leads to tainted interpretations and applications. The wide discretionary powers enjoyed by police officers in traffic legislation, is another example of laws that breed corruption. Similarly, some judicial officers take advantage of their discretion to make tainted judgements. While it is generally agreed that the judiciary should be

independent in the discharge of its functions, experience in other jurisdictions has pointed to widespread corruption by judicial officers using their discretion. In other words, unchecked discretion can very well cause corruption. May be the ACC can undertake to study and analyse the personalities of criminals, and more importantly, attitudes and decisions of those who administer justice, namely, magistrates, judges, lawyer, and the police in order to have a better understanding of the criminal justice system as regards to corruption.⁵

Another cause of corruption is the inadequacy of procedures and manuals. It is vitally important to have adequate procedures and manuals. Officials rely on manuals for their day-to-day operations. There must be consistent between the activities and procedures on one hand and practices on the other. Everything possible should be done to remove all the uncertainties that surround procedures because these are breeding ground for corruption. Possibilities of officials making value judgements should be avoided. The Auditor General's shocking findings of blatant corruption in the use of funds at the Food Reserve Agency (FRA), ZESCO – Kariba North Bank and even at parliament itself point to glaring lack of adequate financial controls. In most institutions, financial controls hardly exist. In those that may have then, they are hardly being implemented.

A Code of Conduct provides fixed guidelines according to which officials must operate, administer and direct public service. Codes of Conduct where effectively implemented can help track down corruption and prevent its occurrence. Ethical codes are useful when they are widely understood, generally accepted, and are seen as being beneficial to all.

In the Second Republic, there used to be the leadership Code which was discontinued in the Third Republic. Instead, the Ministerial Code of Conduct was introduced requiring Ministers to file with the Chief Justice reports on their assets and liabilities. The problem with the Ministerial Code of Conduct in Zambia is that it was deliberately made toothless. There is no mechanism to challenge the declarations filed by ministers or to question them. The Code of Conduct must serve as a Yardstick against which undesirable conduct can be measured. The Judicial Code of Conduct for example, has never been published for the general public to know what is required of judicial officers.⁶

Earlier, we made reference to the exceptionally low level of wages in Zambian public service. Poverty is one of the ancient causes of corruption. When workers are not adequately compensated for their labour and skills, the temptation to be corrupt is great. Corruption can become the only means of survival where conditions cannot permit reasonable existence. However, this is often an excuse to be corrupt. Some of the most incorruptible people are the poorest of the poor. It is the rich and not the poor that often engage in corruption citing "poverty" as the reason, even though they cannot fit in poverty brackets. This is where the ACC can become relevant. Rather than pursue cases they will in the end not be allowed to prosecute or win in court, perhaps, it is time to re-examine the strategy. The Commission could turn towards strengthening family values against corruption as being more useful than the present stand.⁷

2. LEGAL AND INSTITUTIONAL SAFEGUARDS AGAINST CORRUPTION IN ZAMBIA.

(a) THE CORRUPT PRACTICES ACT

The corrupt Practices bill was passed by parliament in 1980 with an impressive majority of 82 'ayes' to 19 'noes'. The main aim of the Act is to "prevent corruption in the country by comprehensively defining acts which may constitute corruption and by providing in the Act severe penalties for anyone who will be found guilty of these acts."⁸

THE ANTI-CORRUPTION COMMISSION ACT 1996

The 1996 Act repealed the Corrupt Practices Act of 1980. It is the principle piece of legislation passed to combat corruption. Its provisions override any provisions relating to corruption in the Penal code, the Criminal Procedure Code or any other legislation, where there is a conflict.

For the purposes of this Chapter, we will now discuss the main provision of the Act. The Act, inter alia, establishes the Anti Corruption Commission as an autonomous body and provides for its powers and functions. It comprised the

Chairman and four other persons. All the members are appointed by the President subject to ratification by the national Assembly. The Chairperson must be a judge or qualified to hold high judicial office. The Commissioners serve for a term of three years subject to renewal.

The functions of the commission are:

- To prevent and take necessary and effective measures for the prevention of corruption in public and private bodies;
- To receive and investigate complaints of alleged or suspected corrupt practices, and subject to the directions of the Director or Public prosecutions prosecute offences under the Anti-Corruption commission Act as well as any other written; and
- To investigate any conduct of any public officer, which, in the opinion of the Commission, may be connected with or conducive to corrupt practices.⁹

The Commission may refuse to conduct, or may decide to discontinue an investigation where it is satisfied that the complaint or allegation is malicious, trivial, frivolous, vexatious or the accompanying particulars are insufficient to allow a proper investigation to be conducted.¹⁰

The commission may after investigations, make such recommendations as it considers necessary to the appropriate authority. The latter must then within thirty days from the date of the recommendation report to the Commission on any action taken by such authority.¹¹

The day to day affairs of the Commission are run by the Director General who is appointed by the President subject to ratification by the national Assembly. The director General must have the qualifications of a High Court Judge. He enjoys security of tenure and can only be removed by resolution of the National Assembly for inability to perform the functions of his office whether arising from infirmity of body or mind or from any other cause or for misbehaviour. The Director General is assisted by the Deputy director who must also possess qualifications for a puisne Judge, and other officers and staff.

The Director General can:

- Authorise an officer of the Commission to conduct an inquiry or investigation;
- Compel any person in charge of any department, officer or establishment of the government, or the head, Chairperson, Manager or Chief Executive Officer of any public body, to produce or furnish any relevant document in his possession or under his control.¹²

The Director General, his deputy and any Officer of the ACC may apply to court for a warrant authorising:

- Access to all books, records, returns, and other documents relating to the work of any government department, public body or private body;
- Access to and search of any premises, vessel, boat, vehicle or aircraft if he has reason to suspect that any property corruptly acquired has been placed, deposited or concealed therein.¹³

Furthermore, the Director General or any of his officers may obtain a court order to permit the Commission to access any bank account, share account, purchase account, expense account or any other account or any safe deposit box in any bank.¹⁴

Section 24 empowers the Director General to direct, by notice in writing, any person being investigated by the Commission, not to dispose of or otherwise deal with any property specified in such notice without his consent. Failure to obey such a directive constitutes an offence.

DEFINITION OF CORRUPTION

According to the Act, the following conduct constitutes corruption:

- for a public officer by himself or by or in conjunction with any other person to corruptly solicit, accept, or obtain or agree to accept or attempt to receive or obtain from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do or for having done or forborne

to do anything in return for any matter or transaction, actual or proposed, with any public body.¹⁶

- for any person to corruptly give promises or to offer any gratification to any public officer as an inducement or reward for doing or forbearing to do anything in relation to any matter or transaction, actual or proposed with which any public body is or may be concerned.¹⁷

The foregoing conduct, if performed in relation to a private body, also constitutes corruption.¹⁸

The term "gratification" is defined as "any corrupt payment whether in cash or in kind, any rebate, bonus, deduction or material gain, benefit, amenity, facility, concession, or favour of any description and any loan, fee, reward, advantage or gift, or any other thing obtained as a result of the corrupt misuse or abuse of public funds or property other than a casual gift."¹⁹

Moreover, the Act makes it an offence for a member of a public body to corruptly solicit, accept or obtain or agree to accept or attempt to receive or obtain from any person for himself or for any person any gratification as an inducement or reward for:

- his voting or obtaining from voting at any meeting of such public body in favour of or against any misuse, matter, resolution or question submitted to such body; or
- his performing or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act by such body; or
- his aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person.²⁰

It is also an offence for any person to bribe a member of any such public body in the circumstances outlined above.²¹

Corruption is committed where a public officer directly or indirectly corruptly solicits, Accepts or obtains, or agrees to accept or attempts to receive or obtain, from any

person for himself or for any other person any gratification as an inducement or reward or otherwise on account of his giving assistance or using influence in;

- the promotion, execution or procurement of any contract with a public or private body for the performance of any work, the provision of any service, the doing of anything or the supplying of any article, material or substance or any sub-contract to perform any work, provide any service, do anything or supply any article, material or substance required to be performed, provide or supplied under any contract with a public or private body.
- The payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or sub-contract as afore said.²²

It is an offence for any person to offer a bribe to a public officer as an inducement or reward for doing any of the afore said activities.²³

SANCTIONS

Section 431 stipulates the sanctions for those convicted of an offence under the Act, which are;

- upon conviction to imprisonment for a term not exceeding twelve years;
- upon a second or subsequent conviction to imprisonment for a term of not less than five years but not exceeding 12 years;
- in addition to any other penalty imposed under the Act, to forfeiture to the state of any pecuniary resource, property, advantage, profit or gratification receive in the Commission of the offence.

The court can, under **Section 42**, in addition to the aforementioned sanctions, order the convicted person to pay the rightful owner the amount or value of any gratification actually received by him. If the rightful owner cannot be ascertained or is himself implicated in the corrupt act, the court must order that the amount or value thereof be paid into the general revenues of the Republic.

PROCEDURAL MATTERS (PART IV)

The Act makes it easier to prosecute corruption by modifying some of the rules of evidence. This is done by way of presumptions, which will operate once the prosecution provides certain basic facts. The effect of such presumptions is to shift the burden of proof from the prosecution to the accused. Moreover, the accused is barred from pleading that any gratification – solicited, accepted, obtained or agreed to be accepted, given, offered or promised is customary in the profession, business, trade, vocation or calling concerned. But casual gifts or entertainments can be pleaded as defence.²⁴

PARDONS

The DPP is under Section 54 empowered to authorise any court to tender a pardon to a prospective witness who is directly or indirectly implicated in an offence under Part IV so that such a person can give evidence. However, the pardon is offered on condition that the witness makes a full and true disclosure of all facts or circumstances within his knowledge relating to the offence and to every other person involved in the Commission thereof.

EXTRA-TERRITORIAL JURISDICTION

Section 61 provides that in relation to a public officer or Zambia citizen, or a Zambia resident, the Act shall have effect within as well as outside Zambia, and notwithstanding where any offence is committed by such person, he may be dealt with in respect of such offence as if it had been committed within Zambia.

(b) CORRUPTION UNDER THE PENAL CODE, CAP. 87

Chapter 10 of the Code covers corrupt conduct in public office. Section 97 prohibits public officers who have a private interest in property, manufacture trade or business, from discharging duties of a judicial administrative character in respect of the same. This is to avoid conflict of interest. The penalty for this offence is imprisonment of up to a year.²⁵

A public officer who abused his office for private gain is guilty of an offence and is liable to imprisonment for up to three years.²⁶ Public service means services of the government or a local authority of a statutory body including an institution of higher learning, corporation or company in which the government has majority interest or control.

Chapter 10 also covers offences relating to false claims for personal gain, false assumption of authority and personation of public officers.

Offences relating to the administration of justice are dealt with in Chapter 11. For instance, Section 113 provides that any person who asks, receives, or obtains or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound or conceal a felony or will abstain from, discontinue or delay a prosecution for felony or will withhold evidence thereof is guilty of a misdemeanour. It is obvious that the provisions relating to corruption in the Penal Code are grossly inadequate both in terms of scope of corruption covered and the sanctions prescribed.

**(c) THE PARLIAMENTARY AND MINISTERIAL CODE OF CONDUCT ACT,
CAP 16**

The object of the Act is to establish a code of conduct for Ministers and Deputy Ministers for the purposes of Article 52 of the Constitution, and for members of the National Assembly for the purposes of Article 71 of the Constitution. Breach of the Code results in the affected member or minister losing his seat in the National Assembly.

(d) THE COMMISSION FOR INVESTIGATIONS ACT, CAP. 39

Article 90 of the Constitution established the Commission for Investigations but its powers and functions are prescribed in the Commission for Investigation Act.²⁷

The Commission comprised an Investigator General and three commissioners, who are all appointed by the President.

The Commission can investigate the conduct of any of the following:

- (a) any person in the service of the Republic;
- (b) the members and persons in the service of a local authority;
- (c) the members and persons in the service of any institutions or organisation, whether established by or under a statute or otherwise, in which the government hold a majority of shares or exercises financial or administrative control;
- (d) the members and persons in the service of any commission established by or under the Constitution or any Act of Parliament.²⁸

(e) ELECTORAL LAWS

The Main pieces of legislation applicable to elections are the Electoral Act and regulations made thereunder, the Electoral Commission Act 138 and the Local Government Elections Act. The Constitution also has provisions pertaining to elections.

(f) THE PROHIBITION AND PREVENTION OF MONEY LAUNDERING ACT 2001

The Act prohibits money laundering, establishes the Anti-Money Laundering Authority and the Anti-Money laundering Investigations Unit, provides for the disclosure of information on suspicion of money laundering activities by supervisory authorities forfeiture of property of persons convicted of money laundering, provides for international cooperation in investigations, prosecution and other legal processes of prohibiting and prevention money laundering.

(g) CORRUPTION AND THE PUBLIC SERVICE

General Orders constitute the prime regulations for Public Service workers. Regulation 60 requires every officer in the Public Service to maintain the highest

standard of conduct, efficiency and personal behaviour to ensure that the Public Service is beyond reproach.

The Finance (Control and Management) Act, Cap. 347 provides for the control and management of public finances.²⁹

(h) DIRECTOR OF PUBLIC PROSECUTIONS

The Director of Public Prosecutions (DPP) is a Constitutional office created under Article 56 of the Republican Constitution. The functions of the DPP are 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. Take over and continue any such criminal proceedings as have been instituted by any other person or authority; and
3. Discontinue, at any stage, before judgement is delivered, any such criminal proceedings instituted.

Under the Criminal Procedure Code, the DPP can enter a nolle prosequi, issue facts and appoint public prosecutors. All prosecutors, even those from the Anti-Corruption Commission, the Drug Enforcement Commission, and so on, are appointed by and operate under the supervision of the DPP.

(i) THE AUDITOR GENERAL

The Office of Auditor General is established under Article 121 of the Constitution. The Auditor General is appointed by the President subject to ratification by the National Assembly.³⁰ His responsibility is to audit all public accounts and satisfy himself that public funds are properly received, expended and accounted for. His brief extends to accounts of parastatals, statutory corporations, and every private institution which receive a government grant, subsidy or subvention in any financial year.

The above legal institutions are some of the institutions established to try and combat corruption in Zambia.

ENDNOTES

1. Prof. Michello Hansungule (2000) Article – Underlying causes of corruption in Zambia – Promoting and Protecting Integrity in Public Life in Zambia Vol. 1
Published by Anti-Corruption Commission Pg. 22.-
2. Ibid. Pg. 25
3. Ibid. Pg. 25
4. Ibid. Pg. 26
5. Ibid. Pg. 26
6. Ibid. Pg. 27
7. Ibid. Pg. 27
8. Ibid. Pg. 28
9. Anti-Corruption commission Act, No., 42 of 1996, Section 9(1)
10. Ibid. Section 9(2)
11. Ibid. Section 10
12. Ibid. Section 20(1)
13. Ibid. Section 20 (3)
14. Ibid. Section 21
15. Ibid. Section 22
16. Ibid. Section 30(1)
17. Ibid. Section 30(2)
18. Ibid. Section 31(1) and (2)
19. Ibid. Section 3
20. Ibid. Section 33(1)
21. Ibid. Section 33(2)
22. Ibid. Section 34(1)
23. Ibid. Section 37(1)
24. Ibid. Section 49
25. It Is a misdemeanour
26. Penal Code, Section 99
27. Cap. 39, Laws of Zambia
28. Constitution, Cap 1. Section 3
29. Finance (Control and Management) Act, Cap 347
30. Constitution of Zambia. Article 121(1)

CHAPTER FOUR

In this section we look at the way the various forms of corruption that we theoretically identified in the preceding sections have specifically manifested themselves in Zambia. In doing this we shall focus on the cases of corruption that have occurred largely in the past two years or so. However since the cases that may have been recorded in the past two years are not isolated we shall look at the scourge as it has been occurring since the establishment of the third republic. This is useful in order to have a complete picture of the way corruption has manifested itself in Zambia. We shall look at the political corruption, bureaucratic corruption and corruption that takes place in the private and parastatal sectors.

1. Political corruption

Political corruption in Zambia has taken the form of electoral corruption. Cases of conflict of interest have been generally confined to cases of government ministers using their political power to make decisions in favour of private organisations, including businesses in which they had interests. Classical cases are those of the then minister of local government and housing who in June 1992 is alleged to have ordered officials in the ministry to open a fixed deposit account with Standard Chartered Bank into which some part of the k1.6 billion given to the ministry to pay salary increments of council workers was deposited. The minister had shares in the bank worth k19 million. The then Attorney General later admitted that the minister was liable to charges of corruption but claimed that the sentence was too insignificant to charge him as the fine would be just K50 if he was found guilty¹. There was also the case of a former minister of lands who appeared in the high court with recommending and securing an offer of farms in Lusaka, one of which was in Makeni to companies in which he had interests²

It is noteworthy that, this former minister was charged only after he resigned from the ruling party and was no longer in office. The nearest case of conflict of interest in which political gain seems to be the main objective is the use to which former President Chiluba had put the presidential discretionary fund which he has extensively used for political purposes instead of using it for the purpose for which it was created by the

National Assembly. Similarly, there has never been any case in which a member of parliament was publicly accused of having received kickbacks in order to support a particular bill of any interest group.

Most cases of political corruption have, therefore, taken place within the context of electoral politics. This has taken several forms. First there has been improper use of state resources by the ruling party in order to induce the voters to vote for the party at election times, particularly during by-elections. Government leaders, including former President Chiluba have been using public resources for electoral purposes. Besides use of state vehicles and other related public resources, government leaders always begin a ritual of donations to schools, community projects and charitable organisations and other causes whenever elections, particularly by-elections, are taking place. It is not clear where this money used for these donations comes from. Former President Chiluba himself had been donating money using the "slush fund". The former president made it a habit to donate something to almost every constituency in which a bye-election was taking place. For example, when the campaign for the Chifubu bye-election scheduled for 26 September 2000 was in progress the president announced donations to various churches in the constituency amounting to k160 million³. Similarly during the campaign for the Pemba bye-election which was scheduled for October 2000, former President Chiluba announced that government would send graders to the Ndodi-moyo Road. He also pledged the rehabilitation of the local clinic. The president also promised to randomly pick on five schools in the area that should be rehabilitated.⁴ These are just two instances where the former president has made use of this fund to influence the outcome of elections. Even the former president's wife was extremely busy in 1996 donating clothes, fertilisers and other items to various communities through her Hope Foundation Organisation. Some opposition politicians and civic organisations suspected that the funds used by the government leaders and to fund the activities of the Hope foundation came from state coffers⁵. Widespread use of state resources by the ruling party was also observed by Weston Mafuleka in his study of the 1996 elections in Luapula and Northern provinces⁶.

Perhaps, the most outstanding case of how state resources were used to the advantage of the ruling party during election time was the cabinet decision just before the 1996

presidential and parliamentary elections to get councils to sell their houses to sitting tenants. Most of the houses were sold below market value. For example houses that were priced at K4 million by the council were slashed to K920,000 following presidential directives⁷. Sitting tenants of houses built before 1958 were only required to pay K23,750. The sale of council houses was part of the evidence that the witnesses gave in the petition against the election of former President Chiluba in 1996, that was brought by the leaders of the Zambia Democratic Congress(ZDC)Dean Mungomba, Agenda for Zambia Akashambwa-Lewanika, United Nation Independence Party(UNIP)Sebastian Zulu and the National Congress the late Evaristo Kambaila. Although the courts expectedly ruled in favour of Chiluba, the presiding judge, however, noted that the sale of houses was clearly used to assist the ruling party in the campaign. It is not just at election time that improper use of state resources has been used for partisan political purposes by the ruling party. There was also the case that involved the transfer of K2 billion from Parliament by three cabinet ministers for use at the MMD convention. The Anti-Corruption Commission instituted an investigation into the case. Although the commission closed its investigation in June 2001 without any action being taken against the three ministers, the parliamentary and ministerial code of conduct tribunal found two of the three ministers guilty and recommended the expulsion from parliament. Although the committee stated that there was no evidence that the money was for the convention it was established what the money was used for.

Corruption at election time has also been in form of direct vote buying in which all political parties have been accused of involvement. Mafuleka's study of the 1996 presidential and parliamentary elections gives extensive account of the use of resources to buy votes. Both the Committee for Clean Campaign(CCC) and the Foundation for Democratic Process(FODEP) found wide spread cases of corruption during the 1996 elections. In their report, the C.C.C stated that the elections were characterised by rampant vote buying which was principally done by the two main contenders in these elections, the MMD and the Zambia Democratic Congress⁸. On its part FODEP reported that candidates and officials from the parties that participated in the elections offered the electorates such gifts as bicycles, t-shirts money and beer⁹. A survey report of the Foundation for Corruption Awareness observed that in both the 1996 presidential

offered the electorates such gifts as bicycles, t-shirts money and beer⁹. A survey report of the Foundation for Corruption Awareness observed that in both the 1996 presidential and parliamentary elections and the 1998 local government elections, corruption started at the time of selection of candidates up to the time of the actual election¹⁰

Bribery of voters has also been noted in the subsequent ward and parliamentary bye-elections¹¹. As later as September 2001 transparent international Zambia monitored the Kabwata bye-election and issued a statement in which they stated that there was widespread vote buying in the bye-election. The statement in part read: The most common type of gifts offered to the electorate are chitenge-shirts(40.6%),foodstuffs i.e mealie meal , cooking oil etc(37.5%) and free beer (4.2%).Respondents further indicated that the main perpetrators of bribery and corruption during the bye-election were politicians(45.6%) campaign agents(18.2%),party cadres(11.1%).For those that were able to identify the main perpetrators of corruption during the bye-election 77.4% identified the ruling party –MMD as the, main, while the Forum for Development and Democracy (FDD) was second (12%),UNIP(2.6%).while 7.7% of respondents believed that all parties that participated in the bye-election were the main perpetrators of corruption during the elections and only an insignificant 0.4% did not know who the main perpetrators of corruption were .¹²

2. Bureaucratic corruption

Although bureaucratic corruption in Zambia has found expression in several ways, however, most of the corruption has taken the form of bribery. And in this case it seems that most of the bribery was initiated by the state officials rather than members of the public who sought favours from government officials. The majority cases of bribery seem to involve lower or middle level civil servants or court officials, giving credence to the view that poor salaries and wages is a major cause of corruption. It would essentially appear that most of these low public officials engage in bribery in order to supplement their meagre salaries. Largely because of this the largest number of corruption cases that have been reported to the Anti- Corruption Commission have occurred in service ministries and departments and the Police Service, and the Ministry of Finance as the table below shows.

Table showing the number of complaints received by the Anti-Corruption Commission by sector from 1996-1999

Sector	1996	1997	1998	1999
Cabinet office	9	9	3	5
Councils	47	73	61	29
Defence and security	2	9	3	1
D.E.C	0	0	1	1
Hospital/clinics	13	4	8	2
Immigration dept.	22	16	15	16
Ministries	61	62	44	34
National parks/wildlife	9	2	3	1
National registration dept	19	2	10	40
Passport/citizenship	13	5	5	
Prisons	7	3	6	0
Schools/colleges	20	20	25	1
State house	1	0	10	0
Zambia police	103	128	125	91
Z.R.A	45	24	23	19
Other GRZ dept	40	46	67	44

Source: the Anti-Corruption Commission.

As stated above ,cases of corruption seem to have been most common in service ministries and departments. The police seem to have the largest number of cases of alleged corruption that have either been brought before the courts or have been investigated by the Anti-Corruption Commission. The most frequent referred cases of corruption involving policemen is that of policemen patrolling roadblocks, who have demanded bribes from the travelling public. The extent of the problem of corruption was perhaps brought to light in 1993 when the then Vice President Levy Mwanawasa rebuked the police officers who were manning the Ndola-Mufulira road for allegedly

charging charcoal burners¹³ and five years later in 1998 Anti-Corruption Commission Commissioner General specifically mentioned the police manning road blocks as among the most corrupt in the country at a freedom forum seminar.¹⁴ Over the years several police officers have appeared in court on charges of corruption. For example in 2000 two police officers were arrested and subsequently charged by the ACC for soliciting and receiving K30000 from a Mr Muvecha so that they can drop an assault case against him.¹⁵ And in 2001 a Matero police officer appeared before a magistrate charged with bribery. He is allegedly supposed to have asked for K100,000 bribe from a suspect so that he could release him from custody.¹⁶ These are just two of recent examples.

It is not just in the police service where there have been cases of corruption other service departments have also reported cases of alleged corruption. There are cases of customs officials who were investigated by the ACC in 1993 for allegedly obtaining money from alleged smugglers.¹⁷ In March 2000 the ACC arrested a principle wild life officer in the Department of National Parks and Wild life Services in the Ministry of Tourism for allegedly soliciting for and receiving a deep freezer from Mr. Brian Thorpe as an inducement or reward for himself and his family to tour and stay in the Lower Zambezi National Park without an entry permit. In 2000 the ACC arrested an assistant registry clerk for soliciting and receiving from a Mr. Sibanda a bribe as inducement to issue the latter with a national registration card.¹⁸ Even the ACC itself has not been spared the problems of corruption. There was for example, The Times of Zambia press report of the 10 October 2000 in which an officer from the ACC is said to have appeared before a magistrate charged with fraud of K500000 obtained during the course of investigations which were being conducted in February 2000.

Cases of corruption have not been limited to the civil service but have extended to the judiciary as well. There had been no cases involving major Judiciary officers until recently (2002) when the Chief Justice Mathew Ngulube was requested to resign on corruption charges. Since 1991 a number of magistrates and other court officials have been implicated in cases of corruption. In 1994 for example a class three magistrate was charged with two counts of corruption. It was alleged that the magistrate solicited

K200000 and received K100000 gratification in order to acquit a Mr J. Lopez who had been charged with assaulting someone¹⁹

There have been cases of bribery involving councillors and council workers. For example in August 2000 seven Lusaka City councillors were suspended in connection with the illegal selling and allocation of plots.²⁰ Then in October 2000 15 Lusaka City Council employees , mostly from the Surveys and Legal Departments appeared before the Lands Tribunal to exculpate themselves from charges of illegal land allocation²¹

Although bribery has been the dominant form of corruption in Zambia and although relatively junior public civil servants are involved there are a number of cases involving officers in public institutions who have been involved in other forms of corruption .For example in December 2000 two Zambia Revenue Authority accounts clerks were charged with fraudulent accounting and theft by public servant. A 1999 report by the Zambia Police Public Relations unit of the police stated that organised crime was on the increase, implied there was the existence of fraud in the police service . The report cited the case of a gang involved in organised crime that was referred to as the Yebo syndicate which was involved in theft of motor vehicles from Zambia to Zimbabwe. The report alleged that this gang had infiltrated the police, customs and exercise department and the City Council Licensing Section. It was because of this infiltration that the gang was able to obtain original blue books with a pre-signed signature of the licensing officer from the Lusaka city council revenue section, and official date stamp²²

Various reports of the auditor general have revealed cases of embezzlement of funds. For example, the 1998 report by the Auditor General revealed several cases in almost every ministry that bordered on the embezzlement of public funds by civil servants .To give just a few examples, the report revealed that seven payment vouchers for the Rural Electrification Fund worth K846,8366 in the Ministry of Energy and Water Development were missing and twenty payments worth K221,989,532 which were made were not adequately supported.²³ In the case of the Ministry of Foreign Affairs, an audit of the Gaborone Mission revealed that a total of Botswana Pula 26,364 which was accrued through visa fees collected by the cashier between January 1997 and November 1998 could not be verified as banked.²⁴ As in the cases that were cited as cases of

misappropriation of funds the Ministry of Education had also several cases of irregular financial accounting. The report cited several cases of failure to account for unclaimed wages. The subsequent auditors report made similar revelations. It revealed several instances of fraud and diversion of public resources from the intended purpose to personal use. The 1999 Auditor General's report also came out with evidence of fraud and embezzlement of public funds.

Although the majority of people that have been brought before the courts are relatively junior public officials a number of senior public officials have also been implicated in acts of corruption, including senior civil servants, parastatal chiefs and government ministers. The most common form of corruption among senior public officials has been the use of their public office to divert state resources for their personal use. It is difficult to establish the level of corruption at the higher echelons of government because in most cases, corruption involving senior officials are rarely investigated. For example in its report of 1999 the ACC reports that out of 14 cases involving ministers and 56 cases involving senior public officials that were investigated in 1999 none resulted in conviction or prosecution. According to the Monitor Newspaper the ACC report revealed cases which cabinet ministers intervened in the investigations against senior civil servants. The report specifically cited two such cases. The first involved a cabinet minister who allegedly attempted to stop investigations against a senior public officer. The minister behaved in a manner that appeared intimidatory to the investigating officer. The commission decided to report the matter but no action was taken on the matter. The second case involved the Attorney General who intervened in the case in which a permanent secretary was being prosecuted for a case of abuse of office. He acted pursuant to Article 56(7) of the Zambian constitution which permits the Attorney-General to give instructions to the DPP in matters involving general considerations of public policy.²⁵

Only very recently there have been several stories that have emerged from the accusation and counter accusations among political leaders following the defection of several political leaders from the ruling MMD.²⁶ In September of this year, the post had also carried a story involving President Chiluba's Press and relations Public Assistant. The Post newspaper alleged that president Chiluba's special Assistant for Press and

Public Relations was being interviewed by the Anti-Corruption Commission on several counts of corruption. The official was alleged to have illegally obtained from the PHI, where he was chairman, a total of K250 million and used the money to renovate one of his houses on Ngumbo Road. He was alleged to have compelled the ZESCO Managing Director to sponsor his son-in-law, for training in the UK before he could purchase a house built under the PHI. On the third account it was he and his wife who conspired to keep for themselves a Mercedes Benz truck which was part of the fleet of vehicles purchased for the PHI.²⁷ Although the official denied any wrongdoing and even accused the ACC of being used by his political opponents to tarnish his image. He went to the extent of filling a legal suit against the ACC.

However, according to the report several ministers were referred to as having been involved in one corrupt act or another. According to the Post version of the same Report thirteen ministers were investigated by the ACC for alleged corruption between 1997 and 1999. The Report revealed that cases under investigation were those of alleged abuse of office and corruption against a former health minister, his permanent secretary and the deputy permanent secretary in the manner they acquired expensive property which was believed to have been over and above their official emoluments. Also investigated was alleged abuse of office against former deputy minister for Luapula province with regard to the use of department of roads equipment and transport errands. The ACC also investigated suspected corruption against a cabinet minister in the facilitation and giving of rights to Telecel Zambia Limited, to operate satellite facilities. Another minister was being investigated for allowing a deportee to return to Zambia. The Minister of education was also being investigated in the manner his Ministry purchased desks for schools without following relevant procedures. These were among several other cases involving political leaders that have been investigated according to the cited Reports.²⁸

There was the case of three ministers who were cited in the 1993 parliamentary select committee which revealed serious irregularities that suggested that the Ministers may have personally benefited from the transactions there were involved. Although the speaker of the National Assembly blocked the publications and the debate of its findings, the parliamentary select Committee, however, investigated the cases of

possible corruption and abuse of office by cabinet Ministers. The first case involved a case in which a cabinet minister personally led a delegation to South Africa to go and purchase furniture, cutlery and items for the state house. The second involved the importation of 40,000 tonnes of emergency fertiliser. The Committee established that the Minister involved his personal contacts to secure the delivery of fertiliser from Kynoch Limited South Africa costing the state an "astronomical" amount of \$10 555 000. the third case involved the purchase of relief maize in which the same minister involved in the purchase of fertiliser "single handedly" instructed the importation of relief maize and sidelined the National Milling Company Limited which was responsible for undertaking the importation of maize. In all these three cases, the Zambia National Tender Board was ignored.²⁹

CORRUPTION IN PRIVATE AND PARASTATAL SECTORS

The private and parastatal sectors has had cases of corruption. There have been some cases that have affected persons in the banking sector. In April 1999 a former Managing Director of the Development Bank of Zambia appeared in court charged with abuse of office involving US \$661, 018. it was alleged that between December 18, 1996 and 31 January, 1997 he approved a loan amounting US \$661,018 to Mbala farmers without following the established procedure and regulations and in the process also undertaking the advantage of his position.³⁰ Similarly, the former Managing Director of Zambia National Commercial Bank, Kaitano Chungu was also charged with abuse of authority when he was Managing Director of the bank. It was alleged that Chungu authorised the Zambia National Commercial Bank cheques payable to Credit Africa Bank of over K331 million and collected credit and two debit notes in favour of Kent Choice mounting to K20 million and K3.280 million respectively.³¹ Chungu was subsequently acquitted due to inadequate evidence showing that he authorised the bank cheques without following the laid down procedures.³²

Other banks have had their own share of corrupt acts, which largely took the form of fraud. For example, in September, 2001 United Bank of Zambia Managing Director Pandalika Shenoy and three managers, Benedict Ashley D'Souza, Rajesh Kaushki and Manoj Gupter, appeared in court charged with forgery, money laundering and bribery.

These were accused of illegally remitting over K3.7 billion outside the country. The four bankers allegedly opened fictitious Kwacha and dollar accounts using fraudulently obtained documents with the intention of concealing the source of money. They also alleged to have given Lesley Mulenga as inducement not to reveal that his particulars were fraudulently used by the bank's directors to open, maintain and remit funds outside Zambia. They were also accused of 49 counts of forging remittance and debit vouchers.³³ The same day a former management trainee, Kennifer Mufalo, appeared in court charged with fraudulent accounting which purported to show that a Fumbelo had K4, 710,154 in his account.³⁴ Early this year, Barclays Bank also had a case of a former employee charged with a case of corruption which he allegedly committed while he was still an employee of the bank. Borniface Telebwe, a former clerk for the bank appeared in court on 21 counts of fraudulent false accounting and theft by servant involving a sum of K35 million.³⁵

There were other organisations in which officials were in one way or another involved in cases of corruption. For example, in May 2001, a Chambeshi Mine accountant appeared before a Lusaka magistrate's court charged with corrupt transaction involving K200,000. It was alleged that between December 1, 1998 and February 1, 1999 Vijay Mbabri Kumar an accountant in Nkana East in Kitwe, corruptly gave K200,000 to Rose Mwanga, a Zambia Revenue authority employee. The money was allegedly meant for the issuance of an exemption of duty licences at Chambeshi Copper mines.³⁶ Another example is that of four ZESCO employees whose bank accounts were frozen and vehicles and houses seized by the Anti-Corruption Commission in November, 2000 for being implicated in a K1.4 billion fraud. At the same time the company management sent about 45 workers away from work in order to facilitate investigations in the fraud.³⁷

EFFECTS OF CORRUPTION

There are several adverse consequences of corruption for a developing country such as Zambia. One major difficulty in discussing the effects of corruption specifically on Zambia is that it is not easy to establish a direct link between corruption and any of the factors that have been identified as the effect of corruption. For example, it is difficult to provide sufficient evidence that erosion of the legitimacy of those in authority or

economic decline is due to corruption and not other causes. In this Essay though it may not be possible to make such direct links, however, inference could be made on the relation between corruption and some of the problems the country faces because that is the most that can be done.

POLITICAL CONSEQUENCES OF CORRUPTION

There are several consequences of political corruption. The most important consequence of political corruption is that democracy is undermined. It undermines democracy in the sense that political corruption subverts democratic institutions, particularly those dealing with the electoral process. A corruptly run election produces results that are suspect. In a large number of cases they do not reflect the true feelings of the electorate. Consequently, such election results are usually not accepted by the losing party, particularly if the losing party is the political party that is not in government. Michael Johnston could not have summarised the danger that corruption poses to democracy any better when he wrote:

"An open, responsive and effective political system requires, at a minimum, a significant amount of citizen trust in officials, in institutions, and in each other. Open politics means not only that people are free to advocate vigorously their own interests, but also that they abide by official decisions, accepting unfavourable outcomes as fundamentally legitimate and mounting their response through political process. It also means that people trust others to do like wise, for there is little reason to play by the rules if one's critics and opponents are unlikely to do so. In addition to its materials costs, one of the primary political costs of corruption is that it undermines and can destroy this political trust.³⁸"

Transferred to electoral politics in order to ensure that all parties to a contest accept the verdict there should be a consensus by all those participating that the electoral process is corrupt free. Hence a political party that loses an election will accept the outcome of such an election and agree to play the role of a "loyal opposition" only if the trust that Johnston refers to exists. Even more importantly, the electorate loses confidence not

only in the electoral system but also in the entire political system if elections are not corrupt free whenever they take place.

The legitimacy of the electoral process in Zambia is seriously questioned precisely because of absence of mutual trust among the political players. Since the coming to power of the MMD government in 1991, the civil society and political parties in Zambia have consistently questioned the outcome of the elections, particularly when the ruling party wins because they feel that these elections are fraudulently won. Three of the groups that monitored the 1996 elections declared the elections not free and fair because they thought the ruling party won the elections fraudulently. In declaring the elections not free and fair the Committee for Clean Campaign (CCC) cited a number of "fraudulent" methods used in the run up to the elections. Among these they cited "rampant vote buying by the opposition Zambia Democratic Congress (ZDC) and MMD the unpreparedness of the Electoral Commission and the constitution amendments which were "aimed at stopping certain individuals from standing." The CCC was also critical of the houses sales programme, which it said was "nothing but a political gimmick." In its opinion the sale of houses could have been done a year or two after the MMD government was sworn in, while the Zambia Reconstruction organisation alleged that the NIKUV voters registration exercise led to fraudulent results.³⁹ ZIMT stated that the electoral process was not secret and intimidated many people and the NIKUV voters roll presented many serious technical incompatibilities.⁴⁰

The Roman Catholic Church has also accused the ruling party of abusing state resources to win elections. The intervention by the Catholic Church has continued even after the 1996 elections. They have ever since 1991 been involved in advocating for good governance in the country. It has, for example, campaigned against the President's "slush fund". The allocation of this money has been criticised by several other NGOs and opposition political parties because the President has used the money for political patronage. Even more seriously, opposition parties and civil society organisations have raised the question of accountability and transparency which is absent in this kind of arrangement.

Opposition political parties have been reluctant to accept election results because they have always distrusted the ruling party. Specifically, the Zambia Democratic Congress refused to accept the 1996 election results because they thought they did not lose genuinely. In fact prior to the actual elections, ZDC was one of the parties that was critical of the way the elections were being managed. The first point of disagreement was over the Government decision to award a contract to an Israeli company, NIKUV Computers, to undertake the registration of voters, which had been undertaken by the elections office in the previous elections. The position of the opposition parties was that the company was engaged in order to rig the elections. There was, therefore, agitation against NIKUV undertaking this exercise.

The NIKUV controversy, in fact, began right from the time they were engaged and continued right up to some weeks after the elections. UNIP and other parties took the matter to the High Court to have the voters' register undertaken by NIKUV computers nullified. Both the High Court and Supreme Court rules against UNIP. Although the opposition party lost the election, the very fact that this petition was undertaken was, perhaps, more than anything else, a reflection of the lack of confidence in the government to run a corrupt-free election.

Corruption in general lowers the respect the citizens have for the constituted authority, and, therefore, the legitimacy of the government. As Annie Williams and others correctly observe, if the

"general population assumes that government officials are not bound by the restraints of their public functions, its incentive to bear the heavy cost of obedience to the law will be affected accordingly."

A Survey undertaken by the Foundation for Corruption Awareness revealed that most Zambians believe that corruption is on the increase and political leaders together with the Office of the President and law enforcement agencies of the government have neither the will nor the ability to fight corruption in the country. This view was held partly because of the equally widely held view that politicians are the most corrupt public officials. This public perception of political leaders, the Report observed has led to most Zambians losing confidence in and respect for the political leadership of the country.⁴¹

Judging from the reaction of the public in the print media and “from the street whispers” the recent accusations and counter-accusations of corruption among the current and former MMD leadership has not helped enhance the public confidence and respect that the citizens should have in the political leaders, given the kind of language people use. The unprecedented petition on President Chiluba's alleged theft of public resources is perhaps an indication of the low esteem that the public has developed towards the country's institution, including the highest public office in the country, the presidency.

Administrative corruption by either the political leadership or the senior civil servant could lead to institutionalised corruption in society at large for “the public will see little reason why they, too, should not help themselves.”

Secondly, corruption also adversely affects accountability and reduces equal provision of government services. This is through siphoning off resources, hiring and/or maintaining incompetent and unqualified public officials and making government procedures and regulations overly complex. Corruption leads to an erosion of government institutions. In the final analysis, all the factors combine to undermine the legitimacy of the Government as a result of the significant reduction of public trust in the Government.

ECONOMIC CONSEQUENCES OF CORRUPTION

Several negative economic consequences of corruption have been identified. These are consequences whose total sum is retardation of economic development. The first such economic consequence of corruption is that it increases the cost of undertaking business. It does this in several ways. For a start, firms incur costs through kickbacks and illegal commissions that they have to pay to public officials.⁴¹

Corruption slows down investment and economic growth for several reasons. Corruption also adversely affects the economy in the sense that the funds intended for investment in productive activities are diverted to paying bribes while at the same time the officials who receive these pay offs divert the resource so acquired into consumption, illegal activities or bank it in foreign accounts. Secondly, because

contracts facilitated by bribery are not transparently entered into , they are difficult to enforce. For, once a firm has made an illegal payment in form of a bribe, the official who accepted the bribe may not be able to guarantee the delivery of the required goods or services. There is also no guarantee that the official receiving the bribe will not renege after receiving the bribe.

In particular, corruption can scare off potential foreign investors and by so doing adversely affect inflow of foreign investment. In Zambia the question of corruption has been a major source of concern by the donor community. As early as 1993, the Paris Consultative Group of Donors expressed concerns about the high level of corruption in Zambia.

The embezzlement of funds through corruption reduces the availability of resources at the disposal of the state. Indeed, huge amounts of money corruptly obtained tend to be siphoned out of the country or used conspicuous consumption rather than being transferred into the productive sector.⁴³

A World Bank document on combating corruption argued that corruption undermines macroeconomic stability through loss of government revenue and excessive spending. Corruption can lead to the loss of Government revenue and excessive spending in the following ways. First, corruption in revenue generating departments such as Tax and customs departments, the incurring of debts through "white elephant" investment projects that may owe their origin to bribery, or the awarding of contracts to high cost bidders or without competitive tendering could lead to the undermining of macroeconomic stability due to loss of revenue and excessive spending. Fraud in financial institutions which may lead to loss of confidence by savers , investors and foreign exchange markets, and debt guarantees and other off-budget contingent liabilities agreed to in corrupt transactions and without public scrutiny could also undermine macro-economic stability.⁴⁴ In the final analysis, it is generally understood that it is the poorer sections of the society that bear most costs of macro-economic instability. Furthermore, it should be noted that bribes become part of the price of the goods produced and services provided, and the effect of this is that the selling price of these goods and services goes up and in the process adversely affects the population,

particularly the poorer sections of the population. The sum total of all these factors is that economic development is insignificantly slowed down.

Corruption also leads to increased inefficiency in both business and public sectors. This, it does in several ways. First, in order to ensure that they get bribed, officials may introduce delays and unnecessary requirements and by so doing raising the firms' costs and in the process affecting the firms efficiency.⁴⁵ Corruption leads to the reduction in the quality of products for at times bribes may be paid to induce regulatory officials to overlook dangerous conditions or may even permit firms to reduce quality among the firms. Corruption could also raise the cost of government projects because government contracts and concessions may not be allocated to the most efficient or most favourable bidders since the officials may be influenced by factors such as the bribe given or nepotism instead of the efficacy of the bidders. It can also adversely affect the quality of public sector projects as the contractors may make pay-offs in order "to cut corners."⁴⁶

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CHAPTER FIVE

RECOMMENDATION AND CONCLUSION

As has been said, corruption in Zambia may not have reached the level it has reached in some West African countries, but evidence that is emerging is that it is rapidly increasing and becoming widespread. It is therefore, becoming institutionalised. It is also, however, clear that petty corruption in form of bribery and embezzlement of public funds involving lowly placed public servants is more prevalent. This is however, based on cases that are either brought before the court of law or in which the Anti-Corruption Commission and any other law enforcing agents publicly state that they are investigating. In fact, in some quarters it has been argued with some justification that these law enforcement agencies tend to avoid very high ranking public officials who may be involved in grand corruption.

RECOMMENDATIONS:

1. Freedom of information legislation must be enacted in order to make Government Administration more transparent and open to public scrutiny. Such legislation would enable members of the public to compel a public servant to furnish the public with information pertaining to government operations within certain parameters.
2. There is need for a forum where Anti-Corruption Organisations can meet and share ideas in order to take audit of each other's comparative advantage so as to complement each other instead of competing against each other.
3. Legislation protecting whistle-blowers who disclose information about improper government and private sector misconduct, should be enacted.
4. There is need to produce a directory of all civil society organisations involved in the anti-corruption struggle.

5. The operations of the Anti-Corruption Commission should be strengthened. For instance, the requirement for the ACC to obtain the DPPs consent before prosecuting suspects must be dispensed with.
6. A strong code of ethics is required for the organisations involved in the fight against corruption.
7. The ACC should be funded directly by Parliament in order to increase its autonomy.
8. Parliament should assume its rightful role as the custodian of public finances and take control of the budgeting process.
9. There should be a formal link between the ACC and the Auditor-General, which should compel the Auditor-General to submit his report to the ACC where there is any suspicion of malfeasance.
10. The Auditor-General should furnish his report to the President and national Assembly simultaneously.
11. There should be a similar reporting link between the ACC and Investigator-General. Moreover, the Investigator-General should report to the National Assembly and not the President.
12. The Parliament oversight function should be strengthened by opening up proceedings of the watchdog committees to the public to enable members of the public have an input.

CONCLUSION

When the Anti-Corruption Commission was formed in the early 1980s, the idea was to use the institution to achieve zero-tolerance of corruption. More than twenty years later, corruption is still growing and government must take responsibility. Whether by design or fate, the ACC has not been adequately assisted by the government to enable it to deal decisively with existing levels of corruption. At one time government even announced that it was dissolving the Commission and transferring its function to the police, and only decanted after combined donor and domestic pressure. The ACC office at the International Airport was closed by President Chiluba's government, all of which show a clear lack of political commitment towards fighting corruption.

However, it is important to note that in President Mwanawasa's "New deal" government, there is the will to fight corruption and hope to achieve a zero-tolerance of corruption. Measures have been undertaken to assist the Commission as much as possible. This can be seen as a positive political commitment towards the fight of corruption.

It can be concluded therefore that the effectiveness of these administrative agencies depends heavily on the government in power at a particular time.

In order to ensure democracy, it is important to deal firmly with corruption. It must be realised that democracy and human rights are not possible in an environment of corruption. Democracy in a country is judged by the extent to which government fights corruption from within its ranks.

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APPENDIX

Reference	Subject	Status
CR/KB/13/99	Alleged abuse of office against a former Central Province Commanding Officer in the manner he took a Police motor vehicle for repairs at Truck Motors. He is alleged to have overlooked the lowest bidder. He is also alleged to have been using Government funds and labour to repair his vehicle.	Investigations proved the allegation false. The use of Government funds and labour is still being pursued.
IR/KB/10/99	Alleged abuse of office an Acting Secretary at the Provincial Administration in the manner he purchased a Council flat and Government house	Investigations proved that the Acting Secretary purchased the Council flat although he was not a sitting tenant, and the house in which he was a sitting tenant.
CR/KB/20/99	Alleged abuse of office against a former Kabwe Town Clerk in the manner he sold House No. 3 Maina Soko in High ridge, Kabwe to a lady of Lusaka	Investigations confirmed that the lady in question purchased the house in Kabwe although she was not on the waiting list. She is believed to be wife to a former PS of Local Government and Housing She was interviewed and confirmed the buying of the house.
CR/KB/22/99	Alleged abuse of office against an Acting Assistant Secretary at the Provincial Administration in Kabwe in the manner he purchased a Toyota Land cruiser despite him being the lowest bidder.	Investigations conducted proved the allegations to be true. Other bidders of the same vehicle have to be interviewed as well as the Committee which handled the tender because they bought motor vehicles even though they were not the highest bidders.

Reference	Subject	Status
CR 483/98	Corruption allegations against a Lands Minister and Chieftainess in the manner they supported the development of a Country Club Project at the Headwater of a river amidst protestations from environmentalists	Investigations completed. Matter referred to LPD for legal opinion
CR 115/98	Alleged abuse of office against a former Deputy Minister of Luapula Province with regard to the use of Department of Roads equipment and transport on personal errands and jobs.	Docket closed. Matter referred to PS Luapula Province for administrative action.
CR 190/99	Alleged abuse of office and fraud against a Commerce Bank Manager in Kitwe	Matter in court.
CR 362/99	Allegations of abuse of office against a Member of Parliament in Lukulu West in the manner he used Constituency Development Funds.	Instances of abuse of office substantiated. Matter referred to LPD for legal opinion.
CR 82/2000	Allegations of abuse of office against a Presidential Special Assistant and a Managing Director at National Housing Authority with regard to the purchase of their personal houses.	Inquiries conducted did not establish any anomalies.
CR 318/2000	Suspected corruption in the manner a Deputy Minister at Ministry of Works and Supply obtained a Mitsubishi Rodeo from Seebro Limited.	Preliminary inquiries established that the Deputy Minister did not play a role in the alleged purchase of motor vehicles for District Administrators. The only irregularity was the registration of the Deputy Minister's vehicle.
IR 56/98	Corruption and abuse of office against a Commissioner of Lands.	Suspect was arrested but before matter could proceed to court, DPP recalled the docket and issued a nolle prosequi.

Reference	Subject	Status
IR 41/99	Section 47 inquiry against senior managers at Food Reserve Agency	Allegations not substantiated Docket closed.
IR 61/99	Alleged corruption against former Minister of Communications and Transport with regard to giving of a licence to Aero Zambia	Inquiry has established that the Minister facilitated the giving of a licence to Aero Zambia and was hosted by the said airline in South Africa. Further inquiries to be conducted in South Africa.
IR 90/99	Suspected violation of Parliamentary and Ministerial Code of Conduct Act against a Deputy Minister.	The inquiry has established instances of cheating, fraud and forgery. Matter sent to DPP for consent.
IR 106/99	Alleged abuse of office against a Deputy Minister in the Ministry of Communications and Transport with regard to the use of Constituency Development Funds.	Inquiries on going.
IR 02 /2000	Allegations of abuse of office and corruption against a Managing Director at Zambia National Building Society.	Inquiries going on.
IR 11/2000	Suspected violation of Parliamentary and Ministerial Code of Conduct against Cabinet Ministers, Deputy Ministers, and MPs and other leaders in the manners they obtained inputs and maize from FRA.	No irregularities found.
IR 38/2000	Alleged corruption against an Ambassador based in the USA with regard to the purchase of furniture at the Embassy in the USA.	The inquiry has established irregularities in the purchase. Further inquiries to be conducted in the USA.
IR 167/2000	Allegations of abuse of office against FRA senior officers in the manner they enjoyed housing allowances awarded a contract to ZESCO, misused company property and gave a motor vehicle to Board Chairman as personal-to-holder	Inquiries on-going.

References	Subject	Status
KIT/CR 40/98	Alleged corruption against a Cabinet Minister with regard to allowing a deportee to return to Zambia.	Investigations continuing.
KIT/CR 14/2000	Allegations of corruption against a senior member of staff and other official of Kitwe City Council with regard to awarding a rehabilitation contract for the water works.	Investigations continuing.
KIT/CR 13/2000	Suspected corruption against Commissioner for Workmens Compensation Control Board with regard to awarding of a transport contract.	Investigations continuing for the purpose of examining records at WCCB Head Office in Ndola.
KIT/CR 45/2000	Suspected corruption against Kitwe City Council Mayor, Town Clerk and Directorate of Water and Sewerage with regard to awarding a water rehabilitation project to Lameyer of Germany.	Investigations on going.
KIT/CR 25/99	Allegations of corruption against Samfya Council Chairman with regard to the disbursement of Constituency Development Funds.	Investigations on going
IR 122/99	Allegations of corruption against a Permanent Secretary for North Western Province with regard to releasing condemned maize.	Investigations on going.
LIV/CR 47/99	Alleged abuse of office against a former PS Southern Province in the manner he awarded a contract to Chisuse Enterprises.	Investigations on going.
LIV/IR 11/99	Alleged corrupt purchase of House No. 58 Kabompo Rd, Livingstone by a Cabinet Minister	Allegations not proven. Docket closed.
LIV/IR 11/99	Alleged corruption against two senior ZAF Officers in the manner they awarded a contract to renovate Livingstone ZAF Mess.	Matter referred to ZAF Air Commander for administrative action.

Reference	Subject	Status
CR 298/99	Suspected abuse of office against a District Council Secretary in the manner he purchased three motor vehicles.	Allegations proved false on inquiry. Docket closed.
LIV/IR 17/99	Alleged abuse of office and theft of K25 million by the Southern Province Provincial Agriculture Coordinator.	Consent to arrest suspect obtained.

SOURCE: ANTI-CORRUPTION COMMISSION ANNUAL REPORT FOR THE YEAR 2000