

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

SPR
LLB
MAT
2013
C-1

**AN ANALYSIS OF THE ZAMBIAN PARLIAMENTARY AND MINISTERIAL
CODE OF CONDUCT ACT**

BY

CHOLWE M. MATIBINI

A paper submitted partial fulfilment of the requirements for the award of the Degree of Bachelor of laws of the University of Zambia.

UNZA

2013

DECLARATION

I, **Cholwe M. Matibini**, do hereby declare that this Direct Research Essay is my authentic work and to the best of my knowledge, information and belief, no similar piece of work has previously been submitted to the University of Zambia or any other institution for the award of a Bachelor of laws Degree. All other works in this essay have been duly acknowledged. No part of this work may be reproduced or copied in any manner without the prior authorization in writing to the author. All errors and other shortcomings are my own.



SIGNATURE

12/08/2013

DATE

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

Direct Research Essay prepared under my supervision by:

CHOLWE M. MATIBINI

(389360/61/1)

Entitled:

**AN ANALYSIS OF THE ZAMBIAN PARLIAMENTARY AND MINISTERIAL
CODE OF CONDUCT ACT**

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

*Document - examined and submitted for examination
on behalf of original supervisor NV. A Paines
Due to lateness of submission no final check was carried out
HP*

18/8/13

.....
PROFESOR M. MUNALULA

.....
DATE

ABSTRACT

Every country, society, community, organisation and maybe family needs some form of a code of conduct to set a minimum standard of acceptable behaviour. A Code of Conduct is defined as a written set of rules governing the behaviour of a specified group, such as lawyers, government employees or organisation. There ~~is~~ requirement or need of such codes of conduct can be found in Associations, and sports which also set rules to regulate members' behaviour.

An effective code of conduct is a powerful tool to deter the people or group it is aimed to regulate from behaving in a certain way that is considered unacceptable. The Zambian Parliament and Ministerial Code of Conduct seek ^s to regulate the behaviour of our leaders in cabinet and parliament as they carry out their official duties in public offices. The Code of Conduct must be one of ^{the} ways ~~in~~ which ordinary Zambian citizens can use to holding these public officials accountable. An effective Code of conduct helps reduce vices which include the misappropriation ^{by} of public officials, corruption, conflict of interest etc.

It is the aim of this research to identify and offer recommendations on the weakness that have been identified. It is the author's view that this important piece of legislation is the key to deter public officials from abusing the public offices they are entrusted to hold in the interest of the people. Therefore, this research recommends that the government and Civil Society Organisations should come together and amend this piece of legislation and to ensure that the Act is enforced to the letter of the law regardless of the status that individual holds in government.

Incomplete abstract.

What were the questions?

What was the methodology used?

What were the findings?

What were the conclusions?

ACKNOWLEDGEMENTS

My profound thanks to my supervisor, with whom I have had the great luxury of working with. In addition, I would like to express my immense gratitude to My Goodwell Lungu, Hope Mubanga, Mr Ntewewe, Mr Andrew Ntewewe, Mr Lawrence Matibini and, of course, to my readers.

This research could not have been written without the generous assistance of countless individuals who shared their knowledge and expertise. To all of you, I extend my deep appreciation.

TABLE OF STATUTES

ZAMBIAN STATUTES

- Constitution of the Republic of Zambia, Chapter 1 of the Laws of Zambia.
- Commission for Investigations Act, Chapter 39 of the Laws of Zambia
- Parliamentary and Ministerial Code of Conduct, Chapter 16 of the Laws of Zambia.

FOREIGN STATUTES AND INTERNATIONAL INSTRUMENTS

- Constitutional reform and governance Act 2010
- Code of Conduct for the House of Commons
- Ethics in Government Act 1978
- Executive members Ethics Act number 82 of 1998
- International Code of Conduct for Public Officials
- Order 53 Rules of the Supreme Court of England (1999 EDITION)
- Public service Act of 1999
- Constitution of the Republic of South Africa number 108 of 1996
- UN Convention against Corruption

TABLE OF CASES

- William Harrington v Dora Siliya and The Attorney General S.C.Z Judgment No.14 of 2011 (Unreported)
- F.T.J. Chiluba v Attorney General Appeal No. 125 of 2002 (Unreported)
- Honourable Dora Siliya, MP v the Attorney General & William Harrington 2009/HP/0601 (Unreported)

TABLE OF CONTENTS

1. CHAPTER ONE

1.0 Introduction	1
1.1 Statement of problem	2
1.2 Purpose/Objectives of the study.....	2
1.3 Significance of the study	3
1.4 Operational definition of terms	4
1.5 Methodology	4
1.6 Ethical consideration	4

2. CHAPTER TWO

2.0 Introduction	5
2.1 Why we need a good ministerial code of conduct.....	5
2.2 Content of the current law – Chapter 16.....	7
2.3 Conclusion	10

3. CHAPTER THREE

3.0 Introduction	11
3.1 Has chapter 16 of the laws of Zambia been effective?	11
3.2 Conclusion	19

4. CHAPTER FOUR

4.0 Introduction	20
4.1 Comparison with other codes of conduct in the Commonwealth jurisdiction	20
4.2 Conclusion	25

5. CHAPTER FIVE

5.0 Introduction	26
5.1 Stance of key constitutional players on the effectiveness of the Act	26
5.2 Conclusion	32

6. CHAPTER SIX

6.0 Conclusion	34
6.1 Recommendations	35

BIBLIOGRAPHY

CHAPTER ONE

1.0 INTRODUCTION

This research will critically analyse the Parliamentary and Ministerial Code of Conduct Act¹ (hereinafter referred to as “the ACT”) and its implementation in Zambia today. I will attempt to justify three issues in the act;

- a) The contents or provisions of the parliamentary and ministerial code of conduct
- b) Enforcement or interpretation of the relevant provisions of the Act by the judiciary.
- c) Knowledge or awareness by the citizen about the Act and what it stipulates in relation to the grounds stated especially in section 4 (d).²

In addition to the above issue to be looked at, past cases or tribunals established under this Act will be analysed. Further, comparisons will be made as to how other jurisdictions or countries such as the United Kingdom,³ South Africa,⁴ and United States of America⁵ etc. have implemented such Acts or codes and how conduct of public office holders is regulated. As was stated in an article published on the transparency international website⁶ “that while countries tend to cover the same scopes of activities through national codes of conduct, differences do emerge when these are reviewed side-by-side.”

Further study will be on why other avenues to address ministerial misconduct are used as opposed to the Act itself. Under section 13 of the Act, a procedure is provided for as to how an individual can go about to lodge a complaint against any minister or such public official. This as will be elaborated further in chapter two involves the establishing of a tribunal by the chief justice.

It is clear that the main purpose of the Act is to regulate parliamentary and ministerial conduct but other avenues like judicial review or direct prosecution by the Anti-Corruption Commission (ACC) are more likely to be used than this Act to Address ministerial

¹ Chapter 16 of laws of Zambia

² Parliamentary and Ministerial Code of Conduct, Chapter 16 of the laws of Zambia

³ Ministerial Code

⁴ Executive Members Act Number 82 of 1998

⁵ Ethics in Government Act 1978

⁶ Craig Fagan, “codes of conduct: codes of conduct in action.” july 2012, <http://transparency.org/codes/> (accessed October 15, 2012)

misconduct, even though processes like judicial review have more stringent grounds which have to be proved for the courts to grant leave for the application to be looked into. This seems to suggest that the Act has no relevance and serves little or no purpose.

1.1 STATEMENT OF PROBLEM

The Dora Siliya judgment⁷ raises a lot of questions about the enforcement and implementation of our Parliamentary and Ministerial code of conduct Act⁸. In comparison with other codes of conduct in other jurisdictions our code of conduct is most of the time ignored. It can be seen from current affairs that our public officers are rarely held accountable under this Act.⁹ For example cabinet ministers are rarely held accountable for the wrongs they are doing while still in office under this Act. Even if a complaint is brought, it is through other avenues like judicial review or in exceptional circumstances through the Anti-Corruption commission (as can be seen on the current preliminary investigation instituted on the Defence and Justice Ministers). This is in spite of the fact that the alternative avenues like judicial review have stringent grounds which have to be raised or satisfied¹⁰ in order for the application to be looked at by the courts.¹¹ There can be two possible reasons deduced for this; either,

conduct with no proof

- a) The Act is not broad enough to cover the many irregularities and thus in dire need of reform or
- b) The Act is simply ignored therefore rendering it irrelevant to serve its intended purpose.

Thus this raises the question as to whether it is necessary to have this Act when it is not used widely. It also appears that there is a lack of awareness and education about the purpose of the Act and what it offers for prosecuting ministerial mis-conduct.

1.2 PURPOSE/OBJECTIVES OF THE STUDY

The main purpose or objective of the study is to analyse and bring to light the weaknesses in the Act which have contributed to its lack of use since its enactment in 1994. Further, to bring to light the opinions and recommendations of Civil Society Organisations (CSOs) on the subject matter and find out their opinion on the effectiveness of the Act, the positives and

⁷ William Harrington v. Dora Siliya and The Attorney General S.C.Z Judgment number 14 of 2011

⁸ Chapter 16 of the laws of Zambia

⁹ Chapter 3

¹⁰ Hilaire Barnett, Constitutional and Administrative Law (London and New York: Routledge -Cavendish, 2008) page 655

¹¹ J.F. Garner and B.L. Jones, Garner's Administrative law (London: Butterworths, 1985) page 104

negatives that have surfaced since its enactment and how it could be amended taking into consideration constitutional matters. More focus is on how much will there be from ordinary citizens to bring actions under the Act as provided for under section 13 of the Act. This will help us understand whether the rights and duties are known by the ordinary citizen, especially by the said CSOs. That is, whether there is enough awareness about the purpose of the Act. Additionally this study will aim to understand the role of the courts in matters brought under this Act¹². This will facilitate understanding of whether the problem is in the interpretation of the Act or whether it's the enforcement that lacks momentum. Finally and most importantly, the study will delve deeper into what is needed to ensure that the Code of Conduct does not become politicised and can function as intended, which is getting public officials to behave better and holding them accountable when they don't.

1.3 SIGNIFICANCE OF THE STUDY

The study will bring out the areas that need to be looked at or be amended to answer the gaps left by the current Act. It will help citizens, communities, and public officials better understand the benefits and challenges of using codes of conduct that are effective in order to build the overall integrity of a government and country. Further it will spearhead the tenets of better conduct by public officials as is integral to building a good governance system, the logic behind having a code of conduct. This study will significantly raise awareness of people's rights or duties contained in Cap 16 and thus will put it at the focal point of our growing democracy in relation to bringing accountability and transparency on the governance system. Further it will help to show whether there has been much awareness as to the purpose and aims the Act aims to achieve. This will help civil organisations and important institutions like the Anti-Corruption Commission to take relevant measures to educate the citizenry on this Act and the good it can bring to our governance system.

This study will raise understanding of the obstacles to enforcing the code of conduct. This will help in fighting vices that are detrimental to improving the governance system such as corruption, tribalism, nepotism, regionalism, conflict of interest etc. Finally this study seeks to pave way for the increased use of the ministerial code of conduct.

¹²Lewis Clive, Judicial Remedies in Public Law (: Sweet and Maxwell, 2008)

1.4 OPERATIONAL DEFINITION OF TERMS

Code of conduct here means "A written set of rules governing the behaviour of a specified group, such as lawyers, government employees or corporate employees"¹³

1.5 METHODOLOGY

This is a qualitative study. The research was conducted using two methods.

1.5.1 DESK

This involved the reviewing of literature on the subject matter and the law on codes of conduct. Both the current law prevailing in Zambia and other selected jurisdictions was reviewed. Further, investigation were conducted through taking opinions of various stakeholders and civil society organisations in Zambia such as the Transparency International (Zambia), Forum for Democratic Process (FODEP), Young African Leaders Initiative (YALI) etc. The organisations are better placed to comment on the effectiveness of the Act and the extent to which they themselves have used it to hold ministers or public officials accountable. Preliminary findings suggest that only one pro-active citizen is utilising this Act at its fullest.¹⁴ The organisation's opinion on the act is crucial for any amendment to the Act.

1.5.2 FIELD WORK

This involved conducting of interviews with key informants such as civil society organisations. Questions were raised as to whether other avenues are preferred and if so, why they are preferred instead of the Act which was meant to answer the actual situations which have been brought through other avenues such as judicial review. Other questions related to whether any type of sensitisations have been undertaken to help educate the citizenry and what type of reform or amendment they propose to the Act.

1.7 ETHICAL CONSIDERATION

Consideration was given to the way questions to those I interviewed on the subject matter were asked. Focus was solely on opinions of those interviewed i.e. either their personal opinion on the stance of the very organisation or civil society they represent or the stance that the organisation itself has taken.

¹³Bryan A. Garner, Black's law Dictionary (Thomson West, 2004)8th edition.

¹⁴ Mr William Harrington

CHAPTER TWO

2.0 INTRODUCTION

This chapter introduces the reader to the focal point of this research, being the ~~Parliamentary and Ministerial Code of Conduct Act~~¹⁵. It intends to take the reader deeper into the Act and outline the relevant sections which in the opinion of the writer might be the weak or unenforced provisions which are in need of amendment. This will involve outlining the importance of a ministerial code of conduct, the effects of an effective and a non-effective ministerial code of conduct. Examples from current affairs will be used to support some of my arguments. Then important or relevant sections of Chapter 16 of the ~~laws~~ of Zambia will be outlined. Finally an analysis of the Act will follow in chapter three.

2.1 WHY WE NEED A GOOD MINISTERIAL CODE OF CONDUCT

A code of conduct is a written set of rules governing the behaviour of a specified group, such as lawyers, government employees or corporate employees.¹⁶ A Code of conduct is important in every society as it helps in upholding democratic tenets, especially in a country like Zambia where we have a young and growing democracy. These tenets include transparency and accountability in the running of national affairs and respect for public resources. Mostly it helps in upholding the democratic concept of the rule of law; this is that leaders rule in accordance with the law of the land.¹⁷

An effective ministerial code of conduct helps citizens, communities and public officials to better understand the benefits and challenges of using codes of conduct that are effective to build the overall integrity of a government and country. Further it spearheads the tenets of better conduct by public officials as it is integral to building a good governance system. As can be seen from Zambia and numerous African countries, it is evident that there has been a failure in holding our public officials accountable and ensuring they adopt a transparent way

¹⁵ Chapter 16 of the laws of Zambia

¹⁶ Therefore in our case the ~~parliamentary or ministerial~~ code of conduct applies to cabinet ministers and their deputies and Members of Parliament. This Act does not apply to civil servants or permanent secretaries.

¹⁷ A Dicey (1915, 8th edition) introduction to the study of the law of the constitution (London: Macmillan) pp110 and 114

of executing their public duties which they are entrusted to do for the people by the people. This has led to high levels of vices which have been detrimental to our young growing democracy and governance system such as corruption, tribalism, nepotism, regionalism, conflict of interest and in some countries revolutions¹⁸ or civil wars.¹⁹ Because of above vices, major effects have been felt not only on the governance systems of many African countries but also on the economies of most countries.²⁰ Thereby a continent which is the richest in terms of resources is the poorest in terms of economic prosperity. All this is a result of not having an effective code of conduct for public officials to be accountable to the people.

Thus, as established above a good and effective ministerial code of conduct helps in bringing public officials in line with democratic principles of good governance. To buttress the above statement there is no better example to give other than the United States of America (USA) and the United Kingdom (UK). In the UK for example public officials are held accountable to both parliament and the judicature and where they are found wanting are pressured enough to resign on moral grounds²¹. However this is not the case here in Zambia as a lot of public officials have gone free for the wrongs they have committed contrary to the spirit of the Act. In addition to this, there seems to be little pressure from the citizens or pressure groups demanding that such individuals face the wrath of the law. Thus in the UK, members of Parliament (MPs) have noted that their code of conduct is extremely useful in dealing with constituents and local parties by providing a formal standard to judge the actions of their elected politicians. This is why the attitude of the MPs tends to be one of being more cautious because they are subject to stricter scrutiny inside and outside parliament.

Ellen Johnson Sirleaf,²² who is often hailed as an anti-corruption crusader by anti-corruption activists, has stated that, "We need documents that prevent our officials from practicing acts that are not pleasant and prosecute violators."

¹⁸ For example in Egypt where the country has gone through two revolutions in 2 years because of citizens in that country demanding better governance from public officials, the latest being against a government elected barely a year ago.

¹⁹ The Democratic Republic of Congo has been engulfed in civil wars because of lacking a prudent way of running the country's resources.

²⁰ For example the Zambian government loses millions of kwacha (rebased) in unaccounted and misappropriated funds according to the recent Auditor Generals Reports. The 2010 – 2011 Auditor General's report states that over half a billion (million rebased) was misappropriated in that financial year.

²¹ Former defence secretary Liam Fox in 2011

²² President of Liberia

²³ E.g. Transparency International

For this reason, she signed an addendum to be added to Code of Conduct Bill in 2012 that extended the measure to all public officials working in the executive branch to ensure that they are “symbols of professionalism”. In many countries, codes of conduct are seen as providing a moral compass that can guide the day-to-day work of public servants and make sure it is characterised by integrity.

As concisely stated in the Canadian code of conduct,²⁴ the objective is to “enhance public confidence in the integrity of public office holders and the decision-making process of government.” As such will see how these countries that have managed to have an effective code of conduct have prospered in terms of development and upholding democratic principles of good governance.

2.2 CONTENT OF THE LAW – CHAPTER 16 OF THE LAWS OF ZAMBIA.

The Act establishes a code of conduct for Ministers and Deputy Ministers for the purposes of Article 52 of the Constitution²⁵ and further establishes a code of conduct for Members of the National Assembly for the purposes of Article 71 of the Constitution. Therefore this Act only applies to 158 officials since ministers and deputy ministers are also Members of Parliament in accordance with article 46.²⁶

2.2.1 Part two of the Act

Part two of the Act applies to members of parliament of the national assembly of Zambia. By virtue of section 4, a Member of Parliament is not to acquire dishonestly any pecuniary advantage. It states as follows;

By virtue of section 4, a member of parliament is considered to have breached the Code of Conduct if knowingly, he or she assists another in acquiring pecuniary advantage by using or benefitting from information which is not available to the public and obtained in the course of his official duties. A further breach under this section is where a member of parliament discloses official information to unauthorised persons or exerts any improper influence on any appointment, promotion or removal of a public officer. Converting of government property either directly or indirectly for personal or any other use is forbidden, so is the soliciting or acceptance of economic benefits.

²⁴ Public works and Government services Canada Code of Conduct

²⁵ The Constitution, Chapter 1 of the Laws of Zambia

²⁶ The Constitution, Chapter one of the Laws of Zambia

This section properly outlines the grounds on which members of parliament can be held to have breached the Code of Conduct. However this in reality is far-fetched in that it is a clear position that members of parliament benefit from such information they come across. One example that can be given is the abuse of the constituency development fund (CDF) which every constituency is given in each financial year. Another usual occurrence in relation to land, it is has become common to many Zambian on how Members of Parliament are involved in illegally giving large pieces of land to investor in their constituencies at the detriment of the constituents. This is all because of the influence these members of parliament have in such constituencies and the information they come across in the course of their duties as members of parliament.

The Act in section 5 and 6 provides for the regulation of conflicts of interest and the requirements of such members of parliament to declare such interest or disclose the nature of that interest to the ~~N~~Assembly or ~~C~~Committee. These include declarations for interests in government contracts or specified bodies or corporate firms. In relation to this section such declarations have to be made in writing to the Chief Justice.

Under Sections 5 and 6 a Member of Parliament is not allowed to speak in the ~~N~~National Assembly or in a committee where he has direct interest in the subject matter. A member has to disclose the nature of that interest to the ~~A~~Assembly or ~~C~~Committee. Section 6 further provides that ~~a~~member of parliament is to declare any interest in relation a contract made or proposed to be made by the government. The declaration under this section must be made to the Chief Justice in writing specifying the nature of the interest.

Under this part of the Act a member of parliament is in breach of the Code if he reasonably fails to make a declaration without reasonable cause or knowingly makes a false declaration.

2.2.2 Part three

This part of the Act applies to Ministers and Deputy Ministers serving in the executive. Under this part of the Act ministers are to make annual declaration of assets, liabilities and income to the chief justice.

Section 10 of this ~~A~~Act stipulates that a person who holds Ministerial office is prohibited from doing anything that is inconsistent with the principle of the collective responsibility of Ministers for the policy of the Government, and the conduct of its affairs. In particular the Act prohibits a Minister from publicly contradicting or disassociating himself from any policy adopted by Cabinet or issue public statements criticising another person holding Ministerial office. Making of unauthorised disclosures of Cabinet discussions, decisions or documents is also a breach of the Code.

Section ten provides that a minister or Member of Parliament within 30 days of being appointed and annually submit to the Chief Justice a declaration of assets, liabilities and income. The declaration must contain the value of the assets and liabilities, the total income together with his income from each source for the twelve months preceding the declaration date. Upon receiving a declaration of interest or declaration of assets and income, the chief justice is to record the particulars of the declaration in a register which is made available for inspection by members of the public.

2.2.3 Part four

This part of the Act outlines the enforcement of the Act in cases where there is a breach of either ~~part two or three~~ of the Act. The Act allows for the constitution of a tribunal where under section 13 there has been a complaint in writing by any member of the public addressed to the Chief justice. The following is the law under ~~part three~~ of the Act.

By virtue of section 13, a complaint or allegation that is against a Member of Parliament (MP) or minister may be made to the Chief Justice by any person in writing giving particulars of the breach alleged. Further, an individual who considers that a statement made in the press or through some media alleges, directly or by implication that a minister or MP has breached this Act, a report of the particulars of the breach in writing may be made to the Chief Justice and request that the matter be referred to a tribunal.

When the report is received by the Chief Justice, he or she notifies the president for an allegation against a minister or deputy or the speaker of the national assembly for allegations against a member of parliament. Then the chief justice appoints a tribunal in accordance with section fourteen so investigations are instituted. The tribunal should submit a report on its finding to the president and the speaker within forty-five days after being instituted.

The speaker must lay the report before the national assembly not later than seven sitting days after the first sitting of the national assembly after receiving the report.

The tribunal is established whenever a member considers that a statement made in the press or other media alleges directly or by implication that he has violated ~~part 2~~ of the Act. The member may write to the chief justice giving the particulars of the breach alleged and request that a tribunal be constituted to investigate the allegations. Any member of the public can lay a complaint before the chief justice against any Member of Parliament or Minister who has breached ~~part 2 or 3~~ of the Act. The tribunal depending upon its findings may recommend such administrative action, criminal prosecutions or such other actions as it may deem fit.

2.3 CONCLUSION

This chapter outlines what is contained in some of the important sections of the Parliamentary and Ministerial Code of conduct. The following chapter is an analysis of these provisions and how they have been enforced.

2.3

CHAPTER THREE

3.0 INTRODUCTION

This chapter analyses and gives a critical view of the Act in its current state in light of the ~~outlined~~ provisions of the Act outlined in chapter two. This chapter will attempt to establish whether the Act has been effective and whether it has addressed the many problems it was to remedy. This again will involve using current or past (during the lifetime of the Act from 1994 to present) situations. Then will outline the identified weaknesses in the Act.

3.1 HAS CHAPTER 16 OF THE LAWS OF ZAMBIA WORKED?

The coming of the Parliamentary and ministerial Code of conduct Act into effect on 21st October 1994 brought much hope to those that advocated for the passing of the bill both in parliament and the society.²⁷ However, 19 years of its existence has been marred by allegations of corruption, tribalism, nepotism, abuse of public office and public resources by public officials. To date such tendencies are common and rife in our governance system; As a result a lot of tax payer's money has been spent on prosecuting the public officials at the expense of national development especially those who served in the Chiluba regime.²⁸ A lot of money has been spent on expensive court processes prosecuting offenders at the expense of national development. It seems to me that the purpose of the Act was to bring out those public officials who were abusing public offices or resources at the very time using the channel prescribed by the Act so as to avoid the very expensive processes which were used to prosecute them especially in the Mwanawasa regime.²⁹ As Craig Fagan³⁰ stated that the function of these codes as intended is getting public officials to behave better and catching them when they don't.³¹

However this has not been the case and little can be pointed out as to what really the Act has achieved in its 19 years of existence. There have only been two successful tests of the Act

²⁷ Republic of Zambia, Parliamentary Debates of the Third Session of the Seventh national Assembly 16th-31th August 1994

²⁸ President of the Republic of Zambia 1991 - 2001

²⁹ President of the Republic of Zambia 2001 - 2008

³⁰ A Senior Policy Coordinator at Transparency International

³¹ Craig Fagan. Codes of conduct: a tool to clean up government/ <http://.transparency.org/code/> July 2012 (accessed October 15, 2012)

since its inception involving then Minister of legal affairs Dr Remmy Mushota and Member of Parliament for Mandevu Patrick Katyoka. On 12 April 1996, the chronicle newspaper (defunct) and the post newspaper exposed Dr Remmy Mushota, then legal affairs minister for trying to cash in a f K210 million government cheque over the counter at Bank of Zambia (BOZ) on 11th April 1996 without a signature or written ministerial controlling officer's, permanent secretary's authorisation. The money would have been used to print copies of the republican constitution in the local languages.

On the basis of public reports, the chief justice received a public request to set up a tribunal to establish whether the news reports about Dr Mushota's attempt to cash a K210 million government cheque over the counter was factual. The tribunal proved that the report was indeed true. It also found that the minister and his accomplice Patrick katyoka, MP for Mandevu constituency acted in breach of the parliamentary and ministerial code of conduct. To save himself and his regime from further embarrassment, President Chiluba sacked Dr Mushota from his ministerial post and as nominated Member of Parliament. Patrick katyoka was also dismissed from parliament

One reason that can be attributed to the little success of the Act may be due to the lack of awareness on the part of key constitutional players, a lack of judicial and political will. Whatever the reason, is the main objective of this research to find out. At the time of writing this chapter, Mr William Harrington a former Minister of transport and communication had written to the Acting Chief Justice of the Republic of Zambia ~~Madam Lombe Chibesakunda~~ requesting her to constitute a tribunal to probe Tourism and Arts Minister Silvia Masebo for her alleged breach of the Zambia Wildlife Authority (ZAWA) Act³² and cancellation of final tender process without following laid down procedure.³³ This request has shown a clear lack of civil and political will to push for the probing of the Minister as apart from Mr W. Harrington, no other persons, political parties or civil society has pushed for the institution of such a tribunal not even our parliament.

The same had happened again involving a complaint brought against then Justice Minister and Attorney general the late Gorge kunda SC.³⁴ In a letter to His Lordship the Chief justice, Dennis Mumba, a former Chief Executive of Zambia National Oil Company (ZNOC) Limited at the time the company was purportedly put in Receivership by Zambia National Commercial Bank (ZANACO) complained against the role Hon. Kunda had played in the

³² Chapter 201 of the laws of Zambia

³³ The Daily Nation newspaper, 23rd January 2013

³⁴ 20th December, 2011

ZNOC Liquidation, which resulted he alleged in fraud on ZNOC and the Zambian Government. He complained that as Minister of Justice and Attorney General, Hon. Kunda must have given legal opinion to the government.

Mr Mumba alleged that Hon. George Kunda was aware of all the irregularities' surrounding the ZNOC liquidation, through which liquidation scheme and sham resulted not only fraud on ZNOC but also on the Zambian Government through absorption of massive fictitious losses incurred by entities that illegally took over ZNOC oil business, claims by ABSA on Zambian government of over \$ 65 million and the illegal issuance of K250 billion by the Zambian government to ZANACO on behalf of ZNOC, all of which resulted because Hon. George Kunda as Attorney General knowingly assisted in the acquisition of pecuniary advantage by other persons, thereby directly or indirectly converted Government property for personal or any other unauthorized use, as prohibited by Section 4 (d) of the Parliamentary and Ministerial code of Conduct, quoted above. This complaint was not acted upon and little had been heard of the complaint.

In relation to Mr Harrington's complaint, the Acting Chief Justice has not constituted a tribunal and according to the headline news published in the Daily Nation Mr Harrington has applied for leave to apply for judicial review in the High Court.³⁵

Further, currently one minister has been accused of soliciting for government contracts in their respective ministry thus bordering on conflict of interests and single sourcing which is contrary to section 6 of the Act. The Auditor general's Report shows a lot of misappropriation of the constituency development fund and other illegal vices. Despite all this happening there is an Act meant to tackle it all. As will be seen later in chapter four such acts by public officials draw stiff penalties in other jurisdictions.

Allegations of misappropriation of public resources can be evidenced by the alarming amounts of public monies not been accounted for in the Auditor General's reports. For example the latest Auditor general's report indicates that over half a billion (half a million kwacha rebased) has been misappropriated and not accounted for by various government ministries or departments.³⁶ This again roots back to among others a lack of an effective ministerial code of conduct.

In relation to our ministerial code of conduct, it can be evidently stated that there are a lot of weaknesses that have led to the Act being ineffective.

³⁵ Daily nation newspaper, 17th may 2013

³⁶ Auditor General's report 2013, for period 2010 to 2011

According to B.O. Nwambueze, The problem is largely human rather than institutional and the motivation for the politician is the power together with the wealth and prestige that comes with occupying these offices, Hefurther stated states that;

“Experience has amply demonstrated that the greatest danger to constitutional government in emergent states arises from the human factor in politics, from the capacity of politicians to distort and vitiate whatever governmental forms may be devised. Institutional forms are of course important, since they can guide for better or for worse the behaviour of the individuals who operate them. Yet, however carefully the institution forms may have been constructed, in the final analysis, much more will turn upon the actual behaviour of these individuals – upon their willingness to observe the rules, upon a statesman like acceptance that the integrity of the whole government framework and the regularity of its procedures should transcend any personal aggrandisement. The successful working of any constitution or law depends upon what has aptly been called the ‘democratic spirit’, that is, a spirit of fair play, of self-restraint and of mutual accommodation of differing interests and opinions. There can be no constitution government unless the wielders of power are prepared to observe the limits upon governmental powers.”³⁷

Therefore, some of the reasons which have been identified from various readings ~~as~~ being the main factors as to why our Code of conduct is considered weak in its current form are as follows;

3.1.1 NARROW SCOPE

The Organization for Economic Co-operation and Development (OECD) Investment Policy Reviews of Zambia report³⁸ highlights issues as to why vices especially corruption are still on the rise. One of the weaknesses identified is in our parliamentary and ministerial Code of Conduct. It outlines that the Act is not broad enough because it affects only 150 public officials. These being Members of Parliament, cabinet ministers and deputy ministers but excludes civil servants. In relation to civil servants the Investigator General³⁹ (Ombudsman) established under the constitution has authority to investigate any complaints or allegations made against any person in the service of the Republic.⁴⁰ However, the report also observed that though our public institutions have begun developing codes of conduct or

³⁷ B.O. Nwabueze, Constitutionalism in the Emergent States, (London: Hardcover, Farleigh Dickinson University Press, 1973)

³⁸ OECD Investment Policy reviews of Zambia Report 2012

³⁹ Article 90 of the Constitution

⁴⁰ Commission for Investigations Act, Chapter 39 of the laws of Zambia.

ethics, they so far only express statements of good intent and do not yet have provisions of sanctions ^{in case of} for non-compliance to the standards that have been set out. 1706

3.1.2 ENFORCEABILITY

The Act requires that public officials are to declare their assets and liabilities when they become Members of Parliament ^{or} appointed as Ministers or Deputies. Declarations are made every five years for members of parliament and every year for ministers.⁴¹ However, there is nothing on record to show ^{back} any Member of Parliament has faced any sanctions for non-declaration of assets, liabilities and interests. Additionally there is also no requirement under the Act for senior public officials (e.g. permanent secretaries) to lodge the same information at the time of appointment or leaving office. Thus it has become difficult for relevant authorities to ascertain whether these former public officials illegally earned any income beyond their known or declared means. Even the chief justice as the receiver of such declarations has no capacity to verify the accuracy of the declarations, the only reliance that these relevant authorities can use is the “abuse of authority” clause under the Anti-corruption Commission Act though this as well depends on the will of the Commission to follow such matters.

Further the Act is silent on the effects of the recommendations. From experience in the case involving the late Dr. Remmy Mushota and Patrick katyoka, the recommendations of the tribunal are binding upon the National Assembly. However there is uncertainty on whether such recommendations by a tribunal are binding on the President. The conclusion by the Denis Chirwa led tribunal does little to help on the subject matter when he stated that; “In the present case we leave Hon. Dora Siliya’s breaches to His Excellency the President to deal with”. No one should continue misleading the public that no offences or wrong doings (breaches) were committed.”⁴²

3.1.3 NO REGULATORY BODY

The other weakness is that there is no body or committee as is the case in countries like the United Kingdom⁴³ or South Africa⁴⁴ to enforce the Act and investigate any allegation on public officials. The lack of an autonomous regulatory body to oversee the enforcement of the Act and spearhead quick investigations on possible breaches of the Act has contributed to

⁴¹ S. 6 and 10 of chapter 16

⁴² William Harrington v Dora Siliya

⁴³ The Independent Parliamentary Standards Authority (IPSA)

⁴⁴ Public Protector

the ineffectiveness of the Act. The only body available for such is the Ombudsman (Investigator general) which only regulates civil servants and has powers only to initiate such investigations, as it finds suitable. In South Africa however, the ombudsman is known as the Public Protector. This institution is considered as one of those institutions necessary for the sustenance of constitutional democracy. The public protector has the power to investigate any conduct in state affairs or in public administration in any sphere in government that is alleged or suspected to be improper or to result in any impropriety or prejudice.⁴⁵ He has the power to take appropriate action and this applies to all officials in government.⁴⁶

What our code of conduct provides is that any person can bring a complaint to the chief justice in writing stating the allegations⁴⁷. The Chief justice then appoints a tribunal after informing the president for Minister and their Deputies or the speaker for members of parliament to investigate such allegations and the tribunal makes recommendations in its final report that's submitted to the president.

This procedure on its own leaves little to be desired as the chief justice can choose whether to go ahead and constitute such a tribunal or not. Currently, this has been challenged as on 26th July 2013, The Lusaka High Court granted leave to Mr William Harrington to apply for judicial review challenging the Acting Chief Justice's decision not to constitute the tribunal under section 14.⁴⁸ Interestingly, according to the documents filed in the High Court, Mr Harrington argues that under section 14, the Chief Justice has no power to decide whether to constitute a tribunal or not without giving sufficient reason.

Further the tribunal findings according to section 13 (5) have to be tabled before parliament in the case of an MP. This does little to help in that looking at our political situations especially our parliament where ministers are also members of parliament and most commonly the case being that government holds the majority of seats in parliament, it is hard to see how such recommendations could be debated fairly and proposed or recommended action voted for accordingly based on principle, dignity and merit rather than on party grounds. To buttress the above stated, Hon. Justice Dr Patrick Matibini⁴⁹ in a paper presented to a joint Parliamentary and civil society seminar at the Mulungushi International Conference Centre⁵⁰ stated that

⁴⁵ Executive members Ethics Act (number 82 of 1998)

⁴⁶ Article 182 of the South African Constitution

⁴⁷ S.14 of chapter 16 of the laws of Zambia

⁴⁸ Parliamentary and Ministerial Code of Conduct, Chapter 16 of the laws of Zambia

⁴⁹ Speaker of the National Assembly

⁵⁰ 5th to 6th May 2002

"The legislative branch of government, because of its history, traditions and modus operandi or working, appears to be the least visible and also the least familiar to the public eye."⁵¹

Further in a research undertaken by Lawrence Mukuka⁵² for the Civil Society for Poverty Reduction (CSPR), he stated the following on state institutions especially in Zambia,

"The problem starts, here with the definition of the state institution in most African states including Zambia, they do not have fully institutionalised bureaucracy and roles. The bureaucracy in most parts of Africa, for long, has been a subject of totalitarianism, patrimonialism, personal rule and clientele system and not all civil servants have been recruited on merit mainly because the state institutions have been weak."⁵³

Calls for the creation of such a body or reform of the Act to the like effect is not new, for example, Integrity Foundation of Zambia (IFZ) had proposed that a tribunal should be a permanent feature of the Parliamentary and Ministerial Code of Conduct Act, The proposal was contained in a study report on the efficacy of the Parliamentary and Ministerial Code of Conduct Act.⁵⁴ The report was of the view that the jurisdiction of the Tribunal should include powers to investigate complaints automatically upon receipt of a complaint. It stated that the need for "It requires restructuring of the tribunal so that it can be headed by a retired judge or private legal practitioner and removing the power of the tribunal to exclude the press and public in its absolute discretion."

The report in its conclusion states that an ethical code of conduct for public officials is an imperative for Zambia and notes that "democracy has brought with it the possibility that the public service will be infiltrated by men of straw". "It is increasingly difficult in Zambia to find men of substance among political players. The report further states that the Parliamentary and Ministerial Code of Conduct Act is a necessary means of trying to achieve a society respectful of morals and basic decency. According to the report, what remains to be done however is to strengthen the mechanism so as to seal all loopholes that the indecent officials among them will try to use to escape from the regime.

⁵¹ Patrick Matibini "Role of civil society in Zambian Parliament" May 2012

⁵² PHD, Department of Social Development studies

⁵³ Lawrence Mukuka: Empowerment and governance: "making state institutions work for the poor", June 2001.

⁵⁴ By Professor Michelo Hansungule of the Centre for Human Rights University of Pretoria in South Africa reported in the post newspaper on 26th July 2002.

3.1.4 JUDICIAL ACTIVISM

Another reason as to why our Act maybe seen not to be as effective as it should be is, arguably the lack of judicial activism on the part of the judiciary. No better statement can be given than that of Judge Musonda in his judicial review judgment on page 28 when he concluded that;

“This courts intervention in the Tribunals decision under the Parliamentary and Ministerial Code of Conduct is caught up in a legal web: (i) under the Judicial review I cannot delve into the merits of the tribunals’ decision.”⁵⁵

It is strange that despite making such a conclusion the learned judge delved into the Merits of the tribunals findings on how the Tribunal breached the rules of natural justice and went on to rule against the Tribunal’s conclusion on the breach of the Constitution that;

“it was procedurally improper and a breach of the rules of natural justice for the tribunal to pronounce itself on matters which had not been subject of the proceedings and which the respondent therein had not been given an opportunity to be heard in her defence.”

This reasoning puts the judiciary on trial because the reasoning of the learned High Court Judge was a clear contradiction to his own recognition of the laid down requirements of judicial review under Order 53⁵⁶ that it is not to delve into the merits of a decision and substitute it with its opinion.⁵⁷ In the case of *F.T.J. Chiluba v Attorney General*⁵⁸ the court held the following;

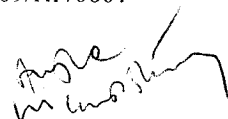
1. The remedy of Judicial Review is concerned with reviewing, not the merits of the decision in respect of which the application for Judicial Review is made but the decision-making process itself.
2. The purpose of Judicial Review is to ensure that an individual is given fair treatment by the authority to which he has been subjected and that it is not part of that purpose to substitute the opinion of the judiciary or of individual judges for that of the authority constituted by law to decide the matters in question.
3. The court will not on Judicial Review application act as a “court of appeal,” from the body concerned, nor will the court interfere in any way with the exercise of any power or discretion which has been conferred on that body, unless it has been exercised in a way which is not within that body’s jurisdiction or the decision is Wednesbury unreasonable.

⁵⁵ Honourable Dora Siliya, MP v. the Attorney General & William Harrington 2009/HP/0601

⁵⁶ Rules of the Supreme Court of England 1999 EDITION –

⁵⁷ *F.T.J Chiluba v. Attorney General* (Appeal Number 125 of 2002)

⁵⁸ (Appeal Number 125 of 2002)



Apart from provided reasons why the Act ~~is not that~~ effective in chapter two, we can state that this type of contradictory reasoning by the judicature is an added factor.

3.2 CONCLUSION

It is clear from ~~the~~ above statements that our code of conduct hasn't really been effective as it is supposed to, however the fact that there is a code of conduct is a step in the right direction. There is need to press for the reforming of the Act as will be highlighted in chapter five of this research. Further we can draw inspiration from how other codes of conduct have revisited their codes of conduct whenever they discover loopholes in them. In the USA for example the code was passed immediately after the Watergate scandal.⁵⁹ Though there have been successes in some complaints brought under the Act for example the Dr Remmy Mushota and Patrick katyoka tribunal, a lot have gone unpunished. Therefore the next chapter introduces the reader to an insight of how other countries have enforced their Codes of conduct.

⁵⁹explained further in chapter four 4.1

CHAPTER FOUR

4.0 INTRODUCTION

This chapter seeks to introduce the reader to how Codes of conduct in other countries or jurisdictions are been implemented. The chapter will look at the key features of these Codes of conduct, their different applications in different country contexts, the public officials that they cover, and their overall effectiveness. This will involve comparing Codes of conduct from other countries that have tackled the issues of public officials' conduct. Here I will focus on codes of conduct from four countries namely United Kingdom, United States of America, Australia and South Africa. This will mean looking at how these countries have taken into consideration when enacting these Codes of conduct and what principles drive them in making sure these codes of conduct are followed and enforced to the letter of the law. This will help us understand where we are going wrong and maybe derive inspiration from these countries on how best to reform and enforce our code of conduct.

4.1 COMPARISON WITH OTHER CODES OF CONDUCT IN THE COMMONWEALTH AND OTHER JURISDICTIONS.

In order to assess how our code of conduct has performed and how effective it is, regard must be given to how other codes of conduct have been drafted and how effective they have been in disciplining public officials. It is important to note that these countries are good examples of how codes of conduct are to be drafted and quickly rectified or amended where flaws are discovered.⁶⁰ In discussing these codes of conduct regard must be had to the discussion in chapter 2.2 on some of the content of our code of conduct and how these differ or are totally divorced from the codes of conduct that will be outlined below.

⁶⁰For example the Watergate scandal of 1974 in the United States of America which resulted in the only resignation of a president in U.S history. According to the then new president⁶⁰ in his first address as president after Nixon resigned stated that "our constitution works; our great republic is a government of laws not of men, here the people rule".

4.1.1 UNITED KINGDOM

The United Kingdom has passed two separate codes of conduct one regulating members of parliament and the other regulating civil servants. In addition these codes of conduct are constantly amended or revised.

4.1.1.1 CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

In relation to the code of conduct for Members of Parliament the then prime minister John Major had established a committee on Standards in Public Life,⁶¹ which adopted the 'Nolan Principles' in 1994.⁶² Before 1994 there was no code of any form in the United Kingdom with respect to public officials. This meant that there was no formal legislation regulating public officials, the only form of discipline available was through parliamentary scrutiny and public pressure for one to resign where one was found wanting.

Thus in 1994 it was thought prudent to bring such regulation into legislation. The House of Commons Committee on Standards and Privileges then used the 'Nolan Principles' to draft a Code of Conduct that the House accepted in 1996. Further in 2009, a Code of Conduct was agreed on for the House of Lords.⁶³ As a common law state with few written laws, the codes of conduct in the United Kingdom have exceptional value for the MPs.

In parliament there are two codes of conduct for members of the House of Commons and House of Lords. The main focus of the Code for the House of Commons is that it aims to "assist Members in the discharge of their obligations to the House, their constituents, and the public at large to provide a framework within which acceptable conduct should be judged."⁶⁴ The code outlines seven general principles of conduct, these being selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.⁶⁵

These same principles form the basis of the code of conduct for the House of Lords.⁶⁶ Both the House of Commons and the House of Lords have a Parliamentary Commissioner⁶⁷ for Standards who enforces the code and investigates possible breaches of conduct. Further in

⁶¹ www.public-standards.org.uk

⁶² Nolan Committee Report on standards in public life: The committee observed that "we can say that conduct in public life is more rigorously scrutinised than it was in the past, that the standards which the public demand remain high and that the great majority of people in public life meet those high standards. But there are weaknesses in procedures for maintaining and enforcing those standards. As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This we regard as the principal reason for public disquiet. It calls for urgent remedial action".

⁶³ www.parliament.uk/about/mps-and-lords/members/standards/

⁶⁴ Code of Conduct for the House of Commons, part 1

⁶⁵ Code of Conduct for the House of Commons, part 4

⁶⁶ www.parliament.uk/about/mps-and-lords/members/standards/

⁶⁷ www.parliament.uk/about/mps-and-lords/members/standards/

*filed as
and ideas*

2009, the Independent Parliamentary Standards Authority (IPSA) was established to oversee and control MPs' expense which was a big scandal amongst members of parliament and has led to some public prosecutions for some members of parliament's expenses claim.⁶⁸ For violations, sanctions include suspension or expulsion from Parliament and public reprimands.

4.1.1.2 CIVIL SERVICE CODE

The first Civil Service Code in the United Kingdom was published in 1996 and again in 2006, but without any official legislation from parliament. On 11 November 2010, the Code was published again, this time as part of the Constitutional Reform and Governance Act,⁶⁹ Therefore this new legislation now gives the Civil Service Code a statutory footing. The Code applies to those officials appointed by ministers or state secretaries in their respective departments

The Civil Service Code of the United Kingdom identifies four important values for appointed civil servants also based on the Nolan principles,⁷⁰ these being integrity, honesty, objectivity, and impartiality. Based on these values, the code explicitly outlines what civil servants can and cannot do. The code includes provisions to prevent potential conflicts of interest, the disclosure of confidential information, and influences from political parties.

In cases of concerns about their duties, civil servants are asked to first consult with their management and, if the matter is not resolved, consult the Civil Service Commission. The code specifically states that civil servants will have to resign from the civil service in cases where they cannot resolve conflicts in the procedure set out in the Code and when they feel that they cannot carry out their duties.

There is a civil service commission which enforces the civil service code. The Commission is independent of Government and of the Civil Service and is an executive Non-Departmental Public Body sponsored by the Cabinet Office. The Civil Service Commission hears complaints from civil servants, investigates and decides on cases, and helps departments with their implementation of the code. The Civil Service code forms part of the terms and conditions of every civil servant employed by the government.

The code requires that if a civil servant is asked to do something which conflicts with the values in the Code, or is aware that another civil servant is acting in conflict with the values, he or she should raise a concern within their own department. Their department should

⁶⁸ www.parliamentarystandards.org.uk/

⁶⁹ Constitutional reform and governance Act 2010

⁷⁰ Nolan Committee Report on standards in public life.

investigate their concern. If they are dissatisfied with the outcome of the investigation they may bring a complaint to the Civil Service Commission. The Commission may also hear a complaint directly.⁷¹

4.1.2 UNITED STATES OF AMERICA

The United States of America (USA) has one of the oldest codes of conduct, it was passed in 1958. The Ethics in Government Act⁷² applies to all government officials and covers a range of issues such as conflict of interest and acceptance of gifts. Its primary objective is to outline the ethical boundaries for public officials. The Code calls for government officials to amongst others “put loyalty to the highest moral principles and to put country above loyalty to Government persons, party, or department.”⁷³ Today, the United States has one of the strictest policies on the acceptance of gifts: no gift valued more than US\$50 can be accepted, and gifts from one source cannot exceed cumulative value of US\$100.

Both the House of Representatives and the Senate have their own respective codes of conduct. Following the Watergate scandal of 1978, the US Congress strengthened and lifted ethical standards with the Ethics in Government Act,⁷³ setting requirements for financial disclosure of all government officials. Both Houses have ethics committees that have been established to interpret the codes and investigate possible violations. The Senate established the Select Committee on Standards and Conduct in 1964, and the House created the Committee on Standards and Official Conduct in 1967.

The committees have the authority to investigate possible violations, suggest punishments, and provide advice on behaviour permissible under the Code of Ethics. Punishments typically recommended by the Committee of the House have included expulsion, censure, and reprimand. In 1999, the Senate adopted a resolution which created a uniform set of potential sanctions such as financial restitution, referral to a party or conference, censure and expulsion. In 2008, the House created the Office of Ethics Committee. This committee is made up of a board of private citizens, which accepts complaints and allegations from the public and makes referrals to the House’s ethics committee.

⁷¹ <http://civilservicecommission.independent.gov.uk/civil-service-code/>

⁷² Ethics in government Act 1978

⁷³ Ethics in government Act 1978

4.1.3 AUSTRALIA

The Australian code of conduct⁷⁴ covers all members of the Australian Public Service, which are all officials employed under the executive branch of government. It does not cover the Australian Parliament but a parliamentary code is currently being debated in order to complement existing codes of conduct already in place for the Australian state parliaments. Members of the Australian Public Service are required to adhere to regulations as defined by the Public Service Act.⁷⁵ The Act clearly outlines the values of the public service and defines proper and improper conduct. The Australian Public Service also states clearly the principles that are to be adhered to by all, including impartiality, accountability (to the government, parliament, and public) and equity.

The Code of Conduct requires members of the Australian Public Service (APS) to behave with honesty and integrity, avoid conflicts of interest, and to avoid using government resources for personal benefit. The Public Service Act defines sanctions that can be implemented for violations of the Code. Depending on the severity of the violation, sanctions can range from a reprimand to the termination of employment. The Australian Public Service Commission, also created in 1999, is tasked with upholding and enforcing the Code of Conduct. The Commission needs to report annually to Parliament and tasks the Ethics Advisory Service to provide advice and training to all APS employees.

4.1.4 SOUTH AFRICA

The South African code of conduct as contained in the Executive Members Ethics Act⁷⁶ states in its preamble that it aims “to provide for a code of ethics governing the conduct of members of the Cabinet, Deputy Ministers and Members of provincial Executive Councils (MECS) and to provide for matters connected therewith.” Further the Act entrusts the president to prescribe standards and rules aimed at promoting open, democratic and accountable government and with which Cabinet members, Deputy Ministers and MECS must comply in performing their official responsibilities.⁷⁷

The Act requires the public officials at all times to act in good faith, in the best interest of good governance and meet all obligations imposed on them by the law. It prohibits cabinet members and deputy ministers from among other things undertaking any other paid work,

⁷⁴ Australian Public Service Code of Conduct

⁷⁵ Public service Act of 1999

⁷⁶ Executive Members Ethics Act number 82 of 1998

⁷⁷ S. 2 (1) Executive Members Ethics Act

Wiederholung
in 16. Stil

exposing themselves to risk of conflict between their official responsibilities and their private interests or using their position or any information entrusted to them to enrich themselves or improperly benefit any other person or act in a way that may compromise the credibility or integrity of their office or of the government.⁷⁸

There is a public protector⁷⁹ who investigates any alleged breach of the code of ethics on receipt of a complaint. The public protector submits a report to the president if the complaint is against a cabinet minister or the premier if the complaint is against MEC. Therefore it is clear from the four countries' codes of conduct outlined above that our Act needs urgent reform.

4.2 CONCLUSION

This chapter shows just how much we need to do in terms of reforming or revising our Code of conduct. It is a common feature in the codes highlighted in this chapter that there is some form of an independent body or committee which is responsible for enforcing the Code. This feature is absent in Zambia, something which has been detrimental to the effectiveness of our Act. The other common feature is the presence of principles or values attached to the codes of conduct which are like a guide to public officials. These codes of conduct show just how these countries are committed to upholding good governance principles. In the following chapter we will consider the views of some Civil Society Organisations.

⁷⁸ S. 2 (2)

⁷⁹ Public Service Commission

CHAPTER FIVE

5.0 INTRODUCTION

Having analysed the content of our Act and identified the potential weaknesses in our Code of conduct, it is right that we analyse just how well informed our Code of Conduct is. In this chapter I will attempt to introduce the reader to what some civil society organisations see the Act in its current form. In trying to do this I have conducted interviews with some civil society organisations (CSOs) concerning various aspects of our code of conduct. This will help us understand how the CSOs are knowledgeable about the Act, how they see the Act in its current form, what proposals they think should be included in any eventual amended or reform to the Act.

5.1 STANCE OF KEY CONSTITUTIONAL PLAYERS ON THE EFFECTIVENESS OF THE ACT

5.1.1 TRANSPARENCY INTERNATIONAL (ZAMBIA)

In an interview⁸⁰ conducted with Transparency International (Zambia), ⁸¹The organisation (TIZ) outlined how it sees the Act today and what it has done to try to reform the Act.

In relation to the effectiveness of the Act, TIZ stated that it has acted as an instrument to scare members of parliament and ministers and referred to two test cases involving the former minister of Justice Dr Remmy Mushota and former Mandevu MP Patrick Katyoka. He admits to the fact that the Act has achieved its purpose on paper and has been seen as filling in those gaps but challenges and weaknesses still exist for example only a few reported cases of breach of the Act. TIZ further points out that the Act lacks a critical component of a clear cut mechanism of how sanctions are to be applied. This can act as a deterrent mechanism so that one knows exactly or has an idea of what the sanction will be when they are in breach of the Act.

⁸⁰ Goodwell Lungu interviewed in Lusaka on 28th June, 2013.

⁸¹ Director General of Transparency International (Zambia)

The other reason given for the non-effectiveness of the Act is that only Ministers are required to declare their assets as members of parliament are not obliged to make declarations. Further reason he gave was that there is no clear cut mechanism of how declarations made by public officials will be monitored or regulated (this includes pecuniary advantage). Another weakness he noted was that constituents have rarely used the piece of legislation to hold members of parliament or public officials accountable.

In relation to whether TIZ has been active in calling for reform and actually used the Act to bring complaints against public officials, Mr Lungu stated that about three years ago TIZ approached Kabwata Member of parliament Given Lubinda with the view of him tabling a private members bill to reform the Act in order to strengthen the declaration of assets and enforcement. TIZ had wanted to introduce into the new law a mandatory requirement for all members of parliament to declare interest and went further to include senior judicial officers like supreme court and high court judges to declare assets as well. However the government did not meet the suggestion by TIZ well and did not support the bill in parliament hence it was defeated at second reading.

However, TIZ has continued to lobby for change in the law, for example the previous and current Strategic Plans for TIZ have a program called the Good governance program which focuses on strengthening institutional framework in the fight against corruption. With this TIZ has continued to lobby policy and law makers to strengthen and revise the current piece of legislation. Further TIZ has held meetings with parliamentarians and worked with the African Parliament Network against Corruption (APNAC) advocating that this law should be revised or reformed and strengthened.

In relation to whether TIZ carries out any awareness or sensitisation works directed at the public, TIZ does engage the public as they are organised through other civil society organisations or community groupings and as done so especially in the past 10 years. The conducting of these awareness programs is to make sure that citizens are empowered with relevant knowledge they can add a powerful voice in advocating for reform.

In relation to the creation of an independent body to regulate and enforce the Act, TIZ was of the view that this would be an important consideration as a lot of countries are opting for this idea and gave an example of Tanzania where they have an Ethics Commission which has code of conduct to regulate elected and appointed officials. The Act in its current state is hanging in a balance as there is no institution to regulate and enforce the Code. TIZ further opined that it would be ideal to have a separate civil service code as the level of employment

between the two categories. Though there is currently a code of conduct but it is not on a statutory footing plus the ombudsman.⁸²

On the question of reforms, TIZ outlined a number of reforms it would recommend in order to strengthen the Act.

1. The first proposal that TIZ would recommend would be to establish an independent institution to regulate and enforce the Act to the letter of the law or the Act should be anchored to an institution such as the Anti-Corruption Commission. However TIZ added that for the sake of providing oversight and implementation, some form of responsibility should also be placed in the hands of a wide spectrum of stakeholders and not just government institutions. This is because the level of enforcement or implementation would be different. One reason of this would be the interference that normally comes from the appointing authority therefore precluding strong enforcement of the law.
2. The second proposal would be for the Act to provide a clear mechanism for monitoring members of parliament and cabinet. This would help members of the public or constituents hold them accountable.
3. There has to be a clear stipulation of would be sanctions for would be offenders. This is what happens where one has breached a specific prohibition like failure to declare assets or interests. The current law only provides that the resultant force would be the nullification of their seats but does not provide what happens where the conduct borders on criminality.

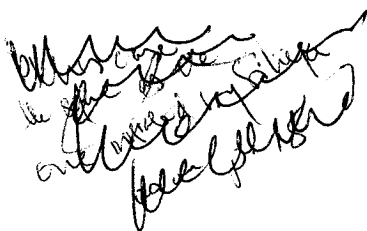
In relation to the third proposal, TIZ amplified this point by stating that the Dora Siliya tribunal⁸³ noted and advised in its ruling that Dora Siliya had been taken to court under the wrong law. Though the tribunal acknowledged that she had breached the constitution by not acting on the advice of the Attorney general, she had not breached the Code of conduct. However the tribunal made some observations that her conduct bordered on criminality and TIZ has acted upon those observations and reported to the Anti-Corruption Commission to take appropriate actions.

The Judge Chirwa Tribunal⁸⁴ made finding of fact of 8 breaches committed by Hon. Dora Siliya picked out of the tribunal report. The Tribunal concluded by stating in the last sentence of the tribunal report as follows;

⁸² Investigator General

⁸³ William Harrington v Dora Siliya

⁸⁴ William Harrington v Dora Siliya

Handwritten signature and notes at the bottom of the page, including the name 'William Harrington' and other illegible scribbles.

put in

"In the present case we leave Hon. Dora Siliya's breaches to His Excellency the President to deal with". No one should continue misleading the public that no offences or wrong doings (breaches) were committed."

✓ ~~Siliya~~ She however only challenged one of the breaches on the Constitution in her application for judicial review which she won both in the High Court and Supreme Court. The other 7 breaches are still outstanding and the Anti-Corruption Commission has confirmed to us that they had instituted investigations against Hon. Siliya. The conclusions raised in the tribunal report still stand and in need of an appropriate response from the Government. However the Commission is reluctant to report back to TIZ.

Finally on the complaints raised by Mr William Harrington ^{against} on the current Tourism Minister Silvia Masebo, TIZ stated that it has been in contact with Mr Harrington advising him on the best approach to take having learnt from the Dora Siliya case where a lot of money and effort was spent only to be told by the tribunal that the complaint was brought under the wrong law.

5.1.2 FOUNDATION FOR DEMOCRATIC PROCESS (Fodep)

From an interview⁸⁵ conducted with FODEP,⁸⁶ it was outlined how Fodep sees the Act in its current state. Responding to the question on the effectiveness of the Act, FODEP stated that in its current form it is difficult to state whether it has been effective or not because no critical study has been undertaken on the current Act. However it opined that from Fodep's point of view the passing of the Act was a step in the right direction in improving transparency and accountability. In making Parliament more responsive and making government more accountable to the people. FODEP further stated that it showed some commitment in consolidating the democratic process and has set standards on how to behave in public office as there cannot be democracy without transparency and accountability.

However, FODEP observed that it is arguable that the effectiveness of Act also depends on the political will of the government and the control that the citizens have on officials. Therefore Fodep sees the effectiveness of the Act as an on-going process and it is a learning process that cannot be achieved or implemented overnight. We are learning through mistakes and other countries we continue to implement best practices of governance. Thus in Fodep's point of view it hasn't been a failure whereby we have to go back to the drawing board.

⁸⁵ Hope Mubanga, interviewed in Lusaka on 2nd June, 2013

⁸⁶ Programs Manager Fodep

In response to the question whether Fodep carries out some form of awareness or sensitisation programs to educate the public on the Act so they can in turn hold leaders accountable, FODEP stated in the affirmative, adding that it works in a lot of areas from electoral and democratic processes to awareness programs and citizen participation. Additionally FODEP tries to sensitise communities and provide information on good governance practices. This is so because Fodep has evolved from being just an electoral watchdog to being a key element in providing information to communities. Thus, giving tools on raising awareness and power to the people in holding officials accountable and demanding transparency by making reference to the code of conduct. Therefore it does a lot of civic education on all aspects of governance so that citizens can make informed decisions.

However in conducting these forums Fodep tries to remain non-partisan and objective in matters such as the Dora Siliya case, the organisation does take part only when it is necessary or where it allows. But mostly it lets the due process of the law take its course in that the organisation lets the institutions do their work and only takes part where it allows.

In relation to whether the creation of a permanent tribunal would be appropriate, FODEP stated that the creation of such a tribunal would be a cost saving measure to the treasury instead of the creation of temporary tribunals. However a lot of issues have to be addressed for example how the people sitting on the body are appointed. In Fodep point of view it would be a step in the right direction as it will see to it that there is some credibility and enforcement. Additionally people will be more aware and more acquainted to the tribunal as they are with corruption and the Anti-Corruption Commission.

Though on the question of what type of proposals Fodep would recommend, FODEP did not go deeper to provide precisely some proposals. The following are some of the recommendations made by FODEP.

1. Propose mechanisms that encourage high levels of transparency and that call for personal integrity. These reforms should look at how the code is going to be monitored and how it is to be effected.
2. The reformation should not aim to punish would be offenders but be a deterrent.

One other aspect mentioned was that any meaningful reform cannot be achieved unless there is a clear separation of powers and every wing of government is independent and able to provide checks and balances. When we have all this and independent institutions to support the Act then it would be a step in the right direction. However FODEP reiterated that the journey to having a more effective Code of conduct is a continuous process.

5.1.3 YOUNG AFRICAN LEADERS INITIATIVE (YALI)

From an interview⁸⁷ conducted with YALI,⁸⁸ it was noted that YALI was formed in 2010; however, the amount of work it has contributed in relation to educating young leaders on good governance issues in its three years of existence is commendable. ~~Anyhow~~ In YALI's point of view the Act is supposed to be utilised to ensure that public officials do not obtain pecuniary advantage. The main problem YALI has noticed in its three years of existence is the continued violation of collective responsibility which is contrary to section 9.⁸⁹ YALI has noted ~~with great regret~~ how Ministers publicly contradict each other over policy which is a total breach of the Code of conduct but go unpunished.

Asked on its effectiveness, YALI stated that the parliamentary and ministerial code of conduct is a very important piece of legislation that was put in place to promote accountability and transparency. Additionally it was enacted to ensure that leaders we put in our public offices both at ministerial and parliamentary level are held accountable and responsible. In YALI's point of view it is an important piece of legislation but it lacks proper implementation and effectiveness. This is because it has not been implemented well as is the case with a lot of laws in Zambia that are meant to hold public officials accountable.

However YALI acknowledged that it is yet to see the full implementation of the Act since the creation of the Act apart from the most noticeable and milestone case involving former Member of Parliament of Petauke Dora Siliya.

Asked on whether YALI has used the Act in any way and carried out sensitisation works, YALI admitted at not doing enough and showed regret to not utilising the Act to its full potential. Especially that YALI's main goal is to groom young leaders and promote good governance practices. In this vain YALI educates young leaders on good governance practices which borders indirectly on the Code of conduct. YALI further stated that it implored the works been spearheaded by Mr Harrington on the Parliamentary and Ministerial code of conduct but acknowledge that in order to effect the Code of conduct

⁸⁷ Andrew Ntewewe, President of Young African leaders Initiative (YALI)

⁸⁸ Andrew Ntewewe, interviewed in Lusaka on 19th June, 2013

⁸⁹ Chapter 16 of the Laws of Zambia

to its full potential, there needs to be a well informed citizenry so they take up the responsibility to hold public officials accountable ~~as Mr Harrington is doing.~~

YALI further acknowledged that as CSOs, they have done little to ensure that its implementation is followed to the letter of the law. In YALI's view they have not taken advantage of this piece of legislation because as CSOs they have not carried out adequate sensitisation even though most of the CSOs we have today are concerned with promoting good governance.

On the question of whether YALI would be in favour of setting up a permanent tribunal or body, it opined that an independent body to enforce the Act would be key in improving governance in Zambia. YALI also realised that the call for an independent body has been reflected in the Draft Constitution⁹⁰ presented to the President of the Republic of Zambia ²⁰¹² ~~last year.~~⁹¹

On any recommendations YALI would propose, it stated the following;

1. The first proposal that YALI stated was the reformation of the judiciary and the office of the Chief Justice in particular. It stated that Chief Justice plays an important role in the implementation of the Act. Therefore the Chief Justice's Office must be autonomous and free from interference especially when it comes to matters involving the parliamentary and Ministerial Code of conduct. Additionally, to equip the office of the Chief Justice to enable the office to verify the declaration of assets and probably anchor it to the ACC for instance to investigate or ascertain whether one has truly declared everything. YALI noted that this would be important because currently a lot of officials don't declare all their assets for fear of being investigated or questioned on how they acquired those properties.
2. Secondly YALI would propose that at the moment, while the debate on whether to establish a permanent tribunal, it is important that we build strong institution anchored around the Act if the act is to be effective, institutions like the ACC are key in ensuring that the Code of conduct is enforced to its full potential.


5.3 CONCLUSION

From the above statements of interviews conducted, it is clear to see that most of the Civil Society Organisations are well informed with the Act. CSOs play an important role in our

⁹⁰ Part xiv of the Draft Constitution

⁹¹ 12th April 2012 by the Technical Committee on Drafting the Zambian Constitution

societies and it is through them that important matters that the citizenry ought to know can be made available. In relation to the Code of Conduct however, it seems to me that most CSOs seem to be more reactive than proactive towards the Act. Though some take a pro-active stance towards governance issues for example TIZ, which is good for our governance system. However in terms of sensitisation most CSOs seem not to sensitise much on important Acts like the Code of conduct but sensitise on governance issues in general. Though this being a step in the right direction, a problem arises when contentious issues arise in respect of specific Acts of Parliament which border much on governance, the citizenry are left to speculate on these issues and take wrong courses of Action. This can be seen from the observations of the Tribunal on Dora Siliya where the tribunal noted that she had been brought under the wrong cause of action.



CHAPTER SIX

6.0 CONCLUSION

Having analysed our code of conduct and made comparisons with other codes of conduct, it is clear that our Act is in dire need of reform. It is clear that the Act has not lived up to expectation and has not addressed the problem of public official misconduct in Zambia. Thus it will be the aim of this chapter to outline some recommendations or some amendments to the current Act or enactment of new Act all together. These are a build up from the observations made during the course of the research. It has been opined by some scholars in relation to weak laws aimed at upholding constitutional governance that it is a manifestation of one cardinal evil, namely the struggle for political power and the unwillingness of rulers in developing countries to relinquish it.

It acts as a means to judge or hold public officials accountable to the very people that elected them and ensuring that they are transparent in how they carry out their functions. The Code of conduct undoubtedly is an important element in the good governance of this country.

However with all that has been said about the “sweet meat” that the Act possesses, it is clear that it lacks a pinch of salt. One identified reason discovered during the research is that of a lack of clear cut enforcement mechanisms in the Act. This has left the requirements of asset declaration by public officials meaningless because as stated above the Chief Justice has no means of verifying these asset declarations. Another loophole is that, what to declare is left in the hands of officials to choose.

The judiciary in an important arm of government that underpins every aspect of good governance, thus with the Act in its current state, judicial activism is much needed in enforcing the Act to the letter of the law. Where the judiciary is reserved in its application of the code, the fight to improve and demand good governance principles from elected officials can be a lost dream. That is why there is a lot of concern from stakeholders about the attitude of the judiciary towards the Code of conduct.

Though the Act faces a lot of challenges today, I agree with the observation given by the Foundation of Democratic Process that the journey to having an effective Code of conduct is a continuous process, but it seems to me that this on-going process must be accompanied by

reformation activism and not just being reactionary to matters that fall under the Code of conduct. Continuous pressure to the government and the legislature on reforming the Act is needed. The following specific recommendations are necessary:

6.1 RECOMMENDATIONS

6.1.1 CREATION OF AN INDEPENDENT REGULATORY BODY

The first recommendation which is of utmost importance is the creation of an independent body which is not re-activate but pro-active to enforce the code of conduct unlike the current position of setting up of a tribunal when a complaint is made to the chief justice. The lack of such a body is one of the major reasons why our code of conduct has not been effective. This body should have the power to investigate allegations or complaints brought before it and spearhead the prosecution of allegations bordering on criminality. The body should be independent of executive and the legislature since it is to regulate the behaviour of the very people who sit in parliament and cabinet ministers. For example in South Africa where there is the office of the public protector with similar powers as stated above.

In relation to a civil service code, either of the two approaches can be taken. Firstly the civil service can regulated to the very body proposed above. This would mean that the body would have jurisdiction to determine complaints brought against civil servants therefore replacing the ineffective Investigator General (Ombudsman).⁹² This would be of great importance in increasing the jurisdiction of what the current Act covers because only 150 people against the whole government are affected.

The second approach would be to create a second body to replace or reform the Ombudsman, with similar functions as those of the Civil Service Commission in the United Kingdom.⁹³ As it is arguable that the current Investigator General's office has done little as well to address civil service misconduct. This second body would be responsible for regulating the behaviour of civil servants from permanent Secretary Level with powers to prosecute.

It is important and encouraging that the call to establish an independent body to enforce or regulate behaviour in public offices has been included in our Draft Constitution.⁹⁴ There is provision for the establishment of Public Protector. The public protector will be appointed by the Judicial Service Commission and approved by the National Assembly. The Public Protector will have to follow the constitution and any other law but will not be directed or

⁹² Commission for Investigations Act Chapter 39 of the laws of Zambia

⁹³ Civil Service Commission

⁹⁴ Part XIV of the Draft Constitution

controlled by any person or authority. However he or she will be accountable to the National Assembly. Some of the powers the Public protector will have will be to issue regulations regarding the manner and procedure for bringing complaints before the Public Protector and the investigation of matters or complaints among other things. The public protector will also be able to bring action before a court and seek redress or relief which is available from the court.

6.2 REFORM TO CURRENT LAW

6.2.1 ASSET DECLARATION

The the current law does have a requirement for members of parliament, ministers and deputy ministers to declare their assets and this according to FODEP is a step in the right direction, although more has to done to seal the loopholes. It is important to note that there is no mechanism for the punishment of non-declarations of assets

Therefore there is need to create a mechanism to enforce such non complacency by public officials and one way is through the proposed creation of a regulatory body⁹⁵. Thus public officials must declare their assets to the regulatory body once elected as Members of Parliament or appointed to higher government offices. Then periodically, they must declare their assets until they leave office, alternatively their assets can be checked randomly so they can explain how some properties were acquired. The report further recommended that IFZ presents a report to the Chief Justice and formally apply to him to set up a tribunal in terms of the Parliamentary and Ministerial Code of Conduct Act to investigate Information and Broadcasting Minister Newstead Zimba, Luapula Member of Parliament Peter Machungwa and former foreign affairs minister Katele Kalumba. In relation to Mr. Zimba, was in light of reports that he acquired a house in Kabulonga residential area which his income indicates that he cannot afford.

This recommendation has to be balanced with the need or interest to protect individuals or public officials especially from political enemies, because this information of assets declarations may be abused by targeting certain people.

⁹⁵ According to World Bank research, 23 per cent of countries require their members of parliament to declare all economic and financial interests (<http://siteresources.worldbank.org/psglp/resources/legislativeethicsandcodeofconduct.pdf>). And among the 34 member countries of the Organisation for Economic Co-operation and Development (OECD), 86 per cent require their top decision makers within the executive and legislature to disclose their private assets. (http://www.oecd.org/governance/governance-at-a-glance-2011_gov_glance-2011-en)

6.2.2 GOVERNMENT CONTRACTS

The major problem in most corruption cases emanate from the soliciting or awarding of government contracts to government or public officials or to companies they own or have shares in. This has brought about conflicts of interest and the current Act under section 6 states that where there is a conflict of interest such person will have to declare interest. However this is not the case in Zambia as there has arisen a tendency by most politicians especially those in the ruling party to think that once they are in government and did contribute a lot to fund the party that won the elections then they can loot as they want to recover that money. This is a wrong way of thinking as the so purpose of occupying public office is to ~~save~~ ^{give} and not be ~~saved~~ ^{selected}. Further this has detrimental effectives on the quality of leadership of the country.

Therefore the only recommendation that would be reasonable because of the current situation we find ourselves in is to bar any public official from taking part in or soliciting for government contracts while serving in a public office nor should they have powers of approving such contracts but must only be consulted. This will help provide equal competition in those taking part in soliciting for government contracts as public officials are always at an advantage as they are privy to information that others who are taking part in the tender process are not.

Such requirements in other countries are stringent whereas in others they are soft. For example in the UK⁹⁶ Members of Parliament (MPs) and spouses can accept any gift without disclosing it as long as the gift is not related to their political duties. When it is of a political nature, disclosure by both is mandated if the gift is valued at more than 1 per cent of their annual salary. In contrast the United States of America has included ~~in its code of conduct~~ post-employment limitations in their codes of conduct designed to provide a cooling off period between government and private business.

6.2.3 CLEAR MONITORY MACHANISM

The Act in its current form lacks a clear monitory mechanism and laid down sanctions. The only known sanction is for the nullification of seats if an MP is found guilty. However in relation to appointed officials, it is left to the appointing authority to determine their fate. This should not be the case as in my recommendation I would be of the opinion that the Act

⁹⁶ www.publications.parliament.uk

has to include clear sanctions. Such sanctions would ^{act} ~~act~~ as a deterrent to would be offenders because the end result would be clear.

6.2.4 OFFICE OF THE CHIEF JUSTICE

As has been observed, the Chief Justice plays an important role in the implementation of our Code of conduct. Any complaints against a Member of Parliament or Minister and any declaration of assets are brought to the Chief Justice. Additionally it is the Chief Justice to appoint or establish a tribunal and make its terms of reference. In light of the above stated, it is thus important to make the office of the Chief Justice more autonomous than it is today. The current judicial review proceedings that will start brought by Mr. Harrington against the Acting Chief Justice will be of interesting to follow in relation to this proposal. Another important recommendation is to equip the Office of the Chief Justice so to enable it to verify declarations made by the public officials under sections 10 of the Code of conduct.

The Parliamentary and Ministerial Code of conduct Act is hanging in the balance in terms of its effectiveness. It is clear from records what the Act has achieved in setting a standard on public life on which public officials especially elected and appointed officials. Our hope is that some of the weaknesses outlined in this research can one day be acted upon so to bring our Code of conduct to speed with the current happenings. It is only when this Act is effective that we can realise our dream of one day having a country where public office is seen as a service to the people, a day when the norms of accountability and transparency are the core values of our public offices. The problem is largely human rather than institutional and the motivation for the politician is the power together with the wealth and prestige that comes with occupying these offices.

15,000
words but appears
short because
double spaced
1 1/2 spacing

Writing style does not strengthen
expectations
double too personal
although named officials
are in the public office
line not been
unrelated

BIBLIOGRAPHY

BOOKS

- Bryan A. Garner, Black's law Dictionary. Thomson West, 2004 8th edition.
- De Smith, S.A : Judiciary Review of Administrative Action (3rd Edition) *reference*
- Dicey, A.V: An Introduction to the Study of the Law of the Constitution, 8TH Edition.
London: Macmillan and Company Limited, 1914, ~~pp110 and 114~~
- ~~Garner A. B, Black's law dictionary. Thomson West Publishing CO, 2004.~~ *reference*
- Garner J.F. and B.L. Jones, Garner's Administrative law. London: Butterworths, 1985, ~~page 104~~
- Hilaire Barnett, Constitutional and Administrative Law. London and New York: Routledge -Cavendish, 2008. ~~page 655~~
- Lewis Clive, Judicial Remedies in Public Law. *CU* Sweet and Maxwell, 2008.
- Nwabueze, B.O: Constitutionalism in the *Emergent* States. London: Hardcover,
Farleigh Dickinson University Press, 1973.

WEB SOURCES

- *the father of codes*
www.transparency.org
- www.parliament.uk/about/mps-and-lords/members/standards/
- www.public-standards.org.uk
- www.publications.parliament.uk/pa/cm201012/cmcode/1885/188502.htm#a1
- www.parliamentarystandards.org.uk/
- http://gcb.transparency.org/gcb201011/in_detail/
- [http://sitereources.worldbank.org/psglp/resources,legislativeethicsandcodeofconduct.p
df](http://sitereources.worldbank.org/psglp/resources,legislativeethicsandcodeofconduct.pdf)
- <http://civilservicecommission.independent.gov.uk/civil-service-code/>
- www.tizambia.org.zm
- [http://transparency.org/codes/Craig_Fagan.Code_of_Conduct_and_the_Legal_System:
ideas and implications/july2012](http://transparency.org/codes/Craig_Fagan.Code_of_Conduct_and_the_Legal_System:ideas_and_implications/july2012)
- [http://transparency.org/code/Craig_Fagan.Codes_of_Conduct:_A_tool_to_clean_up
government/july2012](http://transparency.org/code/Craig_Fagan.Codes_of_Conduct:_A_tool_to_clean_up_government/july2012)

- [http://transparency.org/codes/Craig Fagan](http://transparency.org/codes/Craig_Fagan). Codes of conduct: Common Law States/july2012
- [http://transparency.org/codes/Craig Fagan](http://transparency.org/codes/Craig_Fagan). Codes of conduct: benefits and challenges/july2012
- http://www.oecd.ilibrary.org/governance/governance-at-a-glance-2011_gov_glance-2011-en

OTHER SOURCES

- Draft constitution of the Republic of Zambia.
- Organization for Economic Co-operation and Development (OECD) investment policy reviews of Zambia report 2012.
- Patrick Matibini, "Role of civil society in Zambian Parliament." May 2002 *is this a source?*
- Lawrence Mukuka, "Empowerment and Governance: Making state institutions work for the poor." UNZA, June 2001 *also?*
- Republic of Zambia, Parliamentary Debates of the Third Session of the Seventh national Assembly 16th-31th August 1994
- The Post Newspaper, 26th July 2002. , Integrity Foundation of Zambia (IFZ) calls for permanent tribunal.
- United Nations Public Administration Country profile, Zambia, July 2004.