

Curbing Corruption in the Republic of South Africa

Learn how new measures put in place since the 1996 Constitution, such as the drafting of codes of conduct, whistle-blowing, and training initiatives, are making public officials more aware of the need for ethical conduct in their public dealings.

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There is nothing new about corruption; it has been around for a long time. As far back as 300 B.C., Katilya, the then Prime Minister and Emperor Chandragupta of India, identified forty ways of embezzlement of funds by employees in the private sector, and he had this to say about government officials:

Just as it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue, so it is impossible for a government servant not to eat up at least a bit of the King's revenue.

Corruption is an increasingly important clandestine driving force in South Africa, and it is beginning to seriously undermine the faith of the citizens in the very foundations and fabric of society—in particular the market economy system, which is supposed to be free and fair. A democratic society expects to be ruled by a just and egalitarian government, and citizens are now questioning their public officials as well as the rule of law by an independent, corruption-free, and fair judicial system.

Evidence of corrupt practices is easily found:

- Ghost employees in the government service
- Fraud in the hospitals and school meals schemes
- Unauthorized use of credit cards by officials
- All manner of corruption in the police force

- Leaking of examination papers
- Issue of fraudulent university degrees and identity documents
- Electoral fraud
- False subsistence and transport claims by members of Parliament and medical doctors
- “Kickbacks” in tender procedures
- Pension payments to individuals under the age of sixty and to dead people
- Payment for submission of applications for employment.

And the list goes on.

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In addition to media evidence and information from courts, official and unofficial reports suggest that corruption in South African society is not a matter of exceptional individual behavior, but a common practice affecting many sectors of public activity. Unfortunately, despite available evidence, corruption is substantially less visible than many other types of crime, and this is perhaps why it has not been attacked with the appropriate vigor. Corruption is a consensual crime in the sense that all participants are usually willing parties, who together have an interest in concealing it. Therefore, it involves fewer conscious victims and witnesses.

The sections that follow highlight key reports on corruption in South Africa. We then describe an organizational ethic that has begun to emerge since the 1996 Constitution, including anticorruption efforts, legislative and administrative measures, and, finally, the role of the Public Protector.

Reports on Corruption in South Africa

The Commission for Public Service Innovation (CPSI) published the following key statistics:

- In South Africa, 30 percent of the potentially economically active population are unemployed.
- Twenty percent of households earn less than R800 (\$130) per month. In some provinces, notably the Free State and the Eastern Cape, the figure is as high as 46 percent.
- From 2002 to 2003, crime incidents totalled 2.7 million, or 6,000 crimes per 100,000 people per annum.
- Only 1.8 percent of Black-African households own a computer—limiting access to technology and information.

Corruption in the government service is the major concern among foreign investors. According to the CPSI, a survey of sixty-nine countries ranked corruption as the single largest obstacle to doing business with South Africa. Various bodies in South Africa concern themselves with the issue of corruption. The public media, particularly the popular press, regularly report on corrupt practices in government departments (agencies) throughout the nine provinces. Other bodies, some statutory, others not, act as watchdogs to report on the unethical behavior of public functionaries—including officials and politicians. Among these are the press, the Auditor-General (AG), and the Public Service Accountability Monitor (PSAM),¹ which incorporates the Eastern Cape Public Service Accountability Monitor

and the KwaZulu-Natal (KZN) Provincial Internal Audit Unit, and a prominent consulting firm specializing in anticorruption measures, Heath Public Service Consultants. Brief examples of reports by these bodies follow.

The Press

A Sunday newspaper reported on a book, *The Crisis of Public Health Care in the Eastern Cape—The Post-Apartheid Challenges of Oversight and Accountability*, published by the PSAM, expounding on the reasons for the health care crisis in the Eastern Cape Province as follows:

The way the Eastern Cape provincial government spent its health budget has significantly contributed to the public health care crisis in the province, demonstrated in a recently launched book. The book, produced by the PSAM, was launched during the People's Health Summit in East London. Key findings include:

- That over eighty-one percent of the provincial health department's R25.2 billion budget from 1996 to 2003 was not properly accounted for. This amount (R20.6 billion) was issued with audit disclaimers by the Auditor-General.
- That over R283 million (nineteen percent) of the infrastructure budget between 1999 and 2004 was unspent. This money should have gone towards maintenance of hospitals, clinics, and health centers in the province.
- That between 2000 and 2003 the department failed to spend twenty-seven percent of its HIV-AIDS budget (R33 million)—and of the spent funds, R90 million was unaccounted for.

Auditor-General

The AG is the general watchdog of the government over administrative practices of government departments (agencies). Annual AG reports on two departments are described as examples: first, the Department of Defence (DOD) and, second, the South African Management and Development Institute (SAMDI), which is the official training division of the public service.

¹ The PSAM, a nonstatutory body, is an independent monitoring and research organization based at Rhodes University, Grahamstown, South Africa. It monitors the way government departments, particularly those of the Eastern Cape provincial government, manage their resources, whether or not they provide effective service delivery, and the accountability of politicians and officials who run these departments.

DOD

Among irregular financial management activities, accruals represent goods or services delivered without an invoice received from the supplier at year-end or with an invoice received but unpaid at year-end. Such information cannot be generated from the accounting systems of the DOD; thus, disclosed accruals are understated by an unknown amount. Also, various loss files could not be submitted for audit purposes, and the accuracy and completeness of funds for irregularities and losses, as disclosed in the financial statements, could not be verified. Moreover, the security and general administration over vehicles are lacking, mainly because policies and procedures are not adequately applied or adhered to, resulting in the following:

- **Unauthorized trips.** The number of vehicles on hand materially differs from those reflected in the stock ledger.
- **Deteriorating vehicles.** Vehicles deteriorate to a condition beyond economical repair, mainly as a result of irregular servicing.
- **Irregular repair practices.** Vehicles sent for repairs are not serviced on time, and vehicles are stripped of their parts, causing further delays due to budget constraints.

An information systems audit of the general controls surrounding the Computer Aided Logistic Management Information Systems (CALMIS) and the Operational Support Information System (OSIS) revealed that the activities of the database administrators were not logged and monitored. This is a significant weakness as these administrators have the highest privilege available on the databases and also perform the incompatible system administrator functions. This weakness potentially allowed the databases to be changed without any record being kept. Such changes can then only be detected by comparing the data with source documents. No confirmation that this function was performed could be obtained. In addition, a number of accounts on the CALMIS UNIX servers do not have passwords.

On the basis of the above, no reliance could be placed on the general controls surrounding CALMIS for the regularity audit, and more extensive substantive testing had to be performed to obtain a higher audit assurance. The audit also indicated that limited progress has been made in addressing previously identified issues. Clearly, the report of the AG shows serious shortcomings in the financial management of the DOD that need to be addressed on a priority basis.

According to the CPSI, a survey of sixty-nine countries ranked corruption as the single largest obstacle to doing business with South Africa.

SAMDI

The AG report highlights a number of issues, including the following:

- Documentation relating to payments is missing.
- No framework for the allocation of expenditure exists, so no alternative audit procedures could be performed.
- The AG was unable to verify the completeness and accuracy of expenditures as accounted for in the financial statements.
- Amounts owed show differences between account records and SAMDI's financial statements that cannot be verified.

The European Commission is also investigating missing documentation relating to payments of R5 million since the commencement of the financial agreement until December 31, 2002.

The report of the AG shows serious shortcomings in the financial management of SAMDI, which need urgent attention, also on a parliamentary level.

PSAM

The PSAM published a number of lists detailing actual cases of corruption that took place during 2003–04 in the Eastern Cape provincial government (Table 1).

Examples of cases of corruption include the following:

- R15 million in pensions paid out to 2,400 under-60s.
- Twenty-nine officials implicated in a R2.8 million petrol scam.
- Eastern Cape Safety and Security spokesperson convicted of fraud.
- Transport official arrested for attempted fraud of R950,000.

Table 1. Cases of Corruption in Eastern Cape Provincial Government (2003–04)

Variable	No. of Cases	No. Resolved	% Resolved
Corruption	345	28	8
Maladministration	170	3	2
Misconduct	179	28	15
Conflict of Interest	6	1	2

- Two employees guilty of check theft.
- Health official arrested after cheques disappeared.
- Pensions paid out to bogus or dead people.

KZN Provincial Internal Audit Unit

Ernst and Young, in a fraud and corruption survey in South Africa, has confirmed the following statistically:

- More than 90 percent of fraud and corruption goes undetected.
- Insiders account for 85 percent of fraud and corruption, divided between staff (30 percent) and managers (55 percent).
- Of managers guilty of fraud and corruption, 85 percent have less than one year's service.
- The largest factor in fraud and corruption is weaknesses in internal control systems.

According to the Ernst and Young survey, the areas of prevalence of fraud and corruption in South Africa are bribes, inventory stock, fruitless expenditure, procurement, irregular expenditure, asset theft, unauthorized expenditure, leave, checks, claims, and payroll. The average global loss resulting from fraud per organization is R16.5 million (\$2.75 million). The cost of forensic audits amounts to at least R40 million (\$7 million) per annum. This money could have been used to alleviate poverty or create jobs.

Heath Consultants

According to Advocate W. H. Heath of Heath Consultants, democracy failed in the recent South African arms deal in that the call by the parliamentary oversight committee for an in-depth investigation by objective experts was never adhered to. In an abrupt about-face, members of the oversight committee com-

pletely changed their opinion regarding the investigation of the validity of the arms deal. The general view is that the executive instructed these members to "toe the (party) line." This violated the separation of powers and therefore democracy. The parliamentary oversight committee did not recommend that the contract be cancelled, but it did propose an investigation into certain glaring flaws in the negotiating process that led to contracts governing the deal.

According to Heath, a complete investigation by the agency equipped for that purpose, as recommended by the committee, was not undertaken. This lack of adherence to recommendations of Parliament is the reason why controversy still looms over the deal, even though the contracts were signed by the government some years ago.

Red Flags

Heath Consultants identified scores of "red flags" in arms procurement contracts,² including the following:

1. High-ranking government officials establishing off-shore companies and bank accounts.
2. Government officials paying for nonexistent goods and services to entities owned by a politician, his associates, or family members.
3. Politicians and government officials purchasing significant assets or investing in high-end real estate.
4. Members of government accumulating unexplained financial wealth, especially if inconsistent with information provided on public disclosure forms.
5. A lack of control over and total disregard for specified and general accounting procedures for purchases of government equipment and use of government funds.

² A *red flag* is an advance warning or device that signals the potential for corruption and allows steps to avoid it.

6. Government paying individuals with no justification listed on the books, with checks cashed at exchange houses.
7. A single person in government or a limited group dominating operational, tendering, and financing decisions in defense procurement contracts.
8. An aggressive and dismissive attitude by politicians and arms manufacturing companies toward the findings and advice of independent consultants.
9. Governments not appointing or utilizing agencies established in terms of their constitutions for their designed purposes in large government contracts.
10. Arms manufacturing companies providing excessive incentives for government officials during the tendering process.
11. Governments of arms manufacturing companies assisting these companies financially and diplomatically to secure defense procurement contracts.
12. High-level politicians or arms manufacturing companies with questionable reputations.
13. Governments that are uncommitted to anticorruption measures and their implementation in arms contracts.
14. Lack of qualifications or incompetence of politicians—an easy target for syndicates or arms manufacturers with dubious intentions.
15. Government officials who vehemently retain authority in contracting processes and refuse to delegate to obvious officials within the government.
16. Government officials who override systems such as tendering processes.
17. Governments whose attitude is one of supreme power and little trust.
18. Governments that have little regard for the opinions of and issues raised by opposition parties and other stakeholders representing the interests of the community.
19. Internal government communications that are always from the top down—no proper reporting structures.
20. Politicians who are highly erratic and highly emotional—easily gauged by their public statements, etc.
21. Politicians with high personal debts or financial losses.
22. Politicians with extravagant lifestyles—beyond the means of their office.
23. Close relationships between politicians and certain tendering parties or publicly known relationships with certain private-sector institutions.
24. Too much trust placed in certain key members of government, without a proper review of their performance.
25. Reluctance by government to provide constitutionally established agencies with needed information to perform their legal duties.
26. Politicians who frequently rationalize failures in media statements, including rationalizing cost increases in defense and other government contracts.
27. Government officials who enter into regular significant transactions with the same parties on behalf of the state.
28. Failure to have a clear policy to require government officials and decision makers to disclose their interests.
29. Cabinet members (the executive) who have little regard for their accountability to the legislative.
30. Nepotism in government departments and in the tendering process.
31. Property misuse—using state assets to entertain and accommodate parties involved in the tendering process.
32. Many difficult and unexplainable accounting issues in the procurement process—difficult-to-audit financial and related records and difficult-to-establish audit trails.
33. Doubts regarding the independence of government officials and parties contracted by the state to facilitate procurement processes.
34. Payments made to government officials that are not disclosed for tax purposes.
35. A history of failure to record dishonest acts and disciplining of government officials.

36. Inadequate government policies with regard to internal controls in procurement processes.
37. Procurement contracts that are unduly complex and thereby lacking in transparency.
38. An urgent need by governments to report favorable elements of procurement contracts to the public.
39. Costs and expenses of procurement contracts outweighing the military needs of a specific country or its social welfare needs.
40. No division of duties between new contracts approval and authorization for purchasing.
41. Contracts written to limit competition (for example, sole-source contracts).
42. The same manufacturer always winning contracts by small margins.
43. Contracts always going to the bid received last.
44. Splitting one purchase into multiples to avoid the approval process.
45. Paying above-market prices for defense packages.
46. Governments not employing independent consultants or advisors to conduct integrity and due diligence studies on parties in the tendering process.
47. Politicians and others in authority not conceding the problem of corruption.
48. Relative ease with which employees with dishonest intentions can get to know all the loopholes in an organization's control measures.

Development of an Organizational Ethic

According to the erstwhile Public Protector, efficiency improvements should not be achieved at the expense of high ethical standards. Moreover, a values-based approach alone is inadequate; corruption is as much about systems as about individual conduct. Thus, the country needs codes of conduct; administrative law mechanisms; whistle-blower protections; effective auditing, monitoring, and law enforcement systems; and training in and support of ethical conduct—all essential components of an ethical public-sector service-rendering environment.

The 1996 Constitution commits South Africa to implementing an ethical, accountable, and democratic

system of governance. Indeed, the Department of Public Service and Administration (DPSA) is leading the process of transformation to ethical public servant behavior from within the public service. It is complemented by the Public Service Commission, as well as the Parliamentary Portfolio Committee on Public Service and Administration, which both play an essential oversight role.

Since the advent of the 1996 Constitution, the South African government has taken significant steps to ensure a clean and accountable administration. In 1999, the National Anti-Corruption Initiative was launched, initializing the creation of a National Anti-Corruption Forum, which contributes towards the establishment of a national consensus and coordination of sectoral strategies against corruption. Its role is to advise the government on national initiatives on the implementation of strategies to combat corruption, share information and best practices on sectoral anticorruption work, and advise sectors on the improvement of sectoral anticorruption strategies.

Legislative and Administrative Measures

The Constitution of the Republic of South Africa Act calls for a high standard of professional ethics—particularly in relation to administration in every sphere of government, organs of state, and public enterprises. It also calls for the following:

- Establishment of constitutionally independent bodies, such as the Auditor-General and the Public Protector (national parliamentary ombudsman)
- A Special Investigative Unit for investigating and recovering misappropriated public monies
- An Investigating Directorate on Corruption
- Establishment of inspectors-general within certain state departments (including the military and the police and intelligence services)
- The Executive Members' Ethics Act and its Code of Conduct governing the conduct of and disclosure of interests by members of the cabinet, including the president and deputy-president, deputy ministers, and members of provincial executive councils (cabinets)
- The Code of Conduct for public officials governing relationships with the legislature, executive, public, and colleagues, as well as performance, personal conduct, and disclosure of private interests

- Service contracts of heads of government departments (and soon their senior officials) requiring them to disclose their financial interests, protecting whistle-blowers in the public and private sectors, and other measures.

The Role of the Public Protector

The Public Protector of South Africa is an ombudsman in the classical sense of the word. The Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, alleged or suspected to be improper or to result in any impropriety or prejudice. The Public Protector has been involved in, or supportive of, many of the developments in the anticorruption efforts described above. This was in furtherance of the constitutional injunction that the Public Protector is an institution to strengthen constitutional democracy in South Africa. The main contribution of the Public Protector is that of investigating, reporting, and taking appropriate remedial action, mostly by way of recommendations.

For present purposes it is convenient to distinguish the following “types” of corruption:

- Criminal corruption, where the perpetrator can be prosecuted for crimes, including the taking of bribes, fraud, or theft
- Corruption in the ethical sense, where the act does not constitute a crime, but is nevertheless unethical or in contravention of, for example, a code of conduct
- Corruption in the sense of a system not working or disintegrating because of, for example, incompetence or negligence.

As far as criminal corruption is concerned, the usual reaction to a complaint received by the Public Protector is to refer the matter to the police or prosecuting authorities, which are the appropriate institutions to deal with it. In his role as a receptacle for complaints from members of the public, the Public Protector often receives reports of criminal corruption. However, the Public Protector has an important secondary role to play where the criminal corruption is the result of maladministra-

tion within the exploited state institution. A perfect example is the recently concluded Public Protector investigation into corruption in state subsidies paid for subeconomic housing. Private contractors are reportedly misappropriating such subsidies without providing proper housing in return. The Public Protector launched an investigation into the matter, but brought in the Director of Public Prosecutions to deal with the fraud investigations. The Public Protector concentrated his investigation on the procedures for the payment of subsidies in the relevant provincial housing department, and on the adherence to such procedures, with the aim to prevent similar crimes in future.

Conclusion

In this article, we examine corruption and the development of organizational ethic in the South African government and public service since the 1996 Constitution. We provide an overview of anticorruption measures taken by the government in response to widespread and varied corruption in South Africa. Almost ten years after the new Constitution, anticorruption initiatives have clearly become a major and broad government priority.

REFERENCES

- Auditor-General. Report to Parliament on the Financial Statements of the South African Management and Development Institute (SAMDI) for the year ended 31 March 2003 and on the Financial Statements of the DOD for the year ended 31 March 2004.
- Commission for Public Service Innovation. Report. 2003.
- The Constitution of the Republic of South Africa Act 108 of 1996.
- Public Service Accountability Monitor (PSAM) 2003–04. www.case.psam.ru.ac.za/cmwstypes.asp#Corruption.
- Transparency International. Report. 2002. ■

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