



## RISKING CORRUPTION REGIONAL AND LOCAL GOVERNANCE IN NAMIBIA

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### Key aspects of this paper

The importance of tackling corruption at sub-national levels of government does not receive as much attention as national-level anti-graft efforts. Many corruption cases affecting local and regional authorities occur beneath the radar and if they do reach the national spotlight they are often only referred to in passing with few follow-up media reports appearing. Anti-corruption legislation, regulations, and initiatives at local or regional level are often not developed and promoted with the same vigour as national level responses to corruption. With little attention being paid to the activities of many local and regional authorities, inadequate regulations in place, and council staff teams sometimes short of key personnel and lacking specific skills, the scene is set for corruption to take place. Decentralisation creates an added risk as more powers and responsibilities are transferred to local and regional levels but potentially without the introduction of stronger accountability measures or the training and capacitating of staff to deal with these new tasks in a manner that closes rather than opens up the space for corrupt activity. For example, are the finance officers at regional and local authorities trained to handle financial reporting in ways that meet the requirements of the Auditor-General? The constant references in the Auditor-General's reports on sub-national authorities to missing information, inadequate controls, and other irregularities would tend to indicate that such staff are often not equipped to submit comprehensive and accurate financial reports thereby limiting the effectiveness of fiscal oversight.

Law enforcement agencies, including the Anti-Corruption Commission (ACC), should also be active in all regions so that

the reporting of suspected corruption is a straightforward process. In addition, the Office of the Ombudsman could also have an official presence in the regions to enable citizens to report matters that might not be corruption *per se* but fall under the Ombudsman's mandate to investigate the abuse of power, unlawful conduct by officials and misappropriation of public funds.

The decision-making processes and activities of local and regional authorities are often opaque – with the average citizen remaining unaware of Council proceedings and plans that could dramatically affect grassroots communities. Access to information remains a stumbling block in Namibia with information held by public bodies not being seen as a public good which should be accessible. Greater transparency and access to the local and regional level of governance will lead to greater accountability. This can be as simple as ensuring communities are notified of Council meetings and of how they can contact their local councillors. Increasingly, websites are becoming crucial means of providing information to citizens. As online access increases in Namibia, government services should be offered online to reduce the amount of time it takes for citizens to secure licences, permits, and other necessary documents. In general, local and regional authorities can lessen opportunities for corruption by reducing the time and steps required for any bureaucratic procedure.

It is against this background that regional and local authorities should be effectively monitored and held accountable so as to reduce the risk of corruption and boost public trust in elected politicians and key policy implementers. The cost of corruption often falls on the ordinary honest citizen through loss of efficiency in service delivery by the public sector.

Transparent and accountable governments ensure effective service delivery to communities on the ground. Increasing reports of corruption at local and regional levels of governance combined with a

lack of transparency about finances makes the introduction of a series of anti-corruption measures in Namibia more urgent. For example, there have been a number of media reports about the administration of sanitation projects by regional councils citing instances in which tenders were allegedly granted to close relatives of council officials<sup>1</sup>. An improvement in governance is critical in fostering a healthy relationship between citizens and government.

## Recommendations

### Accountability

- Citizen participation in decision-making processes is vital at regional and local level. Emphasis should be placed on ensuring that structures such as Regional Development Coordinating Committees, Constituency Development Committees, and Village and Settlement Committees are set up and working effectively.
- Information about council meetings, consultative processes and decisions should be widely disseminated to local communities via more traditional means (notices on local language radio stations, printed notices etc) and using new technology such as SMSs and social media.
- Council meetings should be well advertised and community representatives invited to attend to ensure there is an atmosphere of openness and accountability concerning the decision-making and activities of the sub-national authority.

### Financial management

- Chief Regional Officers and CEOs of Councils should take responsibility for ensuring officials representing the Auditor General are given all the information they require for meaningful audits to take place and should ensure the Auditor-General's recommendations are implemented.
- The Ministry of Local and Regional Government and the Office of the Auditor-General should work together with sub-national authorities to ensure skills gaps are filled so that councils have the necessary capacity to ensure financial accountability.
- The Ministry of Local and Regional Government should play an oversight role – ensuring that council proceedings are properly organised, recorded and reviewed and that remedial action is taken when sub-national authorities do not comply with monitoring requirements. The Ministry should

take immediate action when local or regional councils are found to be acting beyond their authorities.

- The Anti-Corruption Commission should examine the Auditor-General's reports for indications of corrupt activities with a particular focus on those reports that have been disclaimed or qualified due to significant omissions and errors.
- Government should expedite the introduction of an Audit Bill that would ensure punitive action can be taken against sub-national authorities and individuals who are deemed to have been responsible for financial mismanagement, loss and waste of funds, and other significant irregularities

### Ethical conduct

- The Code of Conduct for Regional Councillors should be reformed so that compliance is mandatory and penalties are attached to non-compliance. The system for declaring assets and interests should not be left to the whims of individual councillors or officials but rather be a mandatory requirement which is monitored by an appropriate oversight body. Similarly, the Code of Conduct for Local Authority Councillors should be made mandatory. Registers of Councillors' Interests should be made public as an extra accountability measure – by being made available for inspection at council offices and also placed online.
- Sub-national authorities should be given the tools to proactively manage potential conflicts of interest through comprehensive and enforceable codes of conduct and registers of interests and assets. Public scrutiny should be encouraged through policies of openness regarding information. One possibility is to appoint an Ethics Commissioner to provide oversight.

## 1. Corruption at local and regional level - how bad is it?

In late 2011 the ACC published its Namibia National Urban Corruption Perception Survey Report 2011 based on a nationwide survey of 1,200 people. When asked which institutions were the most corrupt, some 5 percent of those surveyed said local authorities while regional councils did not feature in the top ten 'most corrupt' institutions. The most corrupt institution was perceived to be the Government Institutions Pension Fund with 37 percent of respondents citing the GIFP. Local authorities came in tenth place. However, when respondents were asked to name institutions that had seen a rise in corruption since the ACC was established in 2006 of those who felt corruption had increased, some 18 percent cited local authority councils as having a higher incidence of corrupt practices since 2006 – the highest of any institution. Some 14 percent felt corruption had increased most

<sup>1</sup> See 'Toilet distribution smeared by nepotism claims', *Namibian Sun*, September 11 2011; 'ACC asked to investigate Ohangwena tenders' *Windhoek Observer*; September 22 2011 'ACC investigates NS20m Omusati toilets', *The Namibian* September April 6 2010; 'Conflict of interest stink', *Insight Namibia* Corruption Tracker July 2010; 'Mapenzi in NS20 million toilet tender conflict', *Informanté* June 24 2010; 'Omusati toilet saga: Shaningwa pockets NS1.5 million', *Informanté* July 8 2010.

at Regional Councils – behind Natis (17 percent), Home Affairs (16 percent), and the Police (14 percent). This would tend to indicate that while corruption may not be perceived as rampant it is seen as increasing in recent years at both local and regional levels. The results of the 2008 Afrobarometer Survey in Namibia were similarly chastening. Some 48 percent of respondents felt some local authority councillors were involved in corruption, while 19 percent felt most councillors were corrupt. Six percent said all local councillors were corrupt. The results were similar for Regional Councillors with 51 percent believing some were corrupt, 16 percent saying most were corrupt and five percent stating all were corrupt.

Even given the fact that much newspaper reporting is ‘Windhoek-centric’ and that reports from the regions are often limited in number and scope, there have been a worrying number of articles citing corruption and mismanagement in local and regional authorities in recent years.

Media reports inevitably do shape perceptions. In the Actual Instances of Corruption Report (2008/09) produced by the Namibia Institute for Democracy local authorities featured in 16 percent of the newspaper articles reviewed behind only parastatals and the private sector (both on 22 percent).

The tables below indicate that governance issues at local authorities have regularly grabbed headlines, while suspect goings-on at regional councils have also regularly featured in the

newspapers. Over the last seven years at least 18 local authorities have featured in articles about governance problems, some multiple times for different problems/cases. Eight regional councils have also featured – with only Erongo, Kunene, Kavango, Ohangwena and Omusati not making the wrong kind of headlines. The subjects of the articles vary from specific cases brought by the ACC against individuals linked to councils to demonstrations alleging corruption at certain sub-national authorities. It is important to note that not all these reports are about confirmed cases of corruption. However, they do indicate some worrying trends – with some council officials and elected politicians being prepared to abuse their positions and powers for private gain. A common theme is the manipulation of the public procurement systems to divert tenders to companies linked to officials or elected politicians. In several cases, officials appear to see nothing wrong with allocating tenders to their associates and even family members. Other cases often involve officials bending already lax rules to divert benefits to themselves, such as the allegations of senior officials claiming housing benefits while living in free accommodation. Clearly, there is a lack of ethical conduct – but also a lack of oversight, loopholes in laws, and a failure to enforce the relevant laws that do exist. Many of the cases have never had any reported resolution – either because the case is still in court or because the newspaper that first reported the matter later lost interest in the story.

**Table 1: Reports relating to governance problems at local authorities since 2005**

Authority	Date	Publication	Key allegation/subject
Outjo	June 2012	The Namibian	Former Outjo town treasurer Dawid Koen is to stand trial on 114 charges relating to the theft of N\$1.74 million.
Windhoek	May 2012	The Namibian	A five-year-old audit report on the refurbishing of the City of Windhoek’s bus fleet unearthed alleged corruption but no action was ever taken against the suspects.
Khorixas	February 2012	The Namibian	Khorixas residents to march against alleged disappearance of N\$400,000 at the council
Mariental	February 2012	The Namibian	Allegations of corruption made by residents against the Mariental municipality
Windhoek	January 2012	The Namibian	The City of Windhoek suspended an official in the Planning and Property Department on allegations of corruption after fraud was discovered in the Build Together low-cost housing scheme.
Khorixas	December 2011	Namibian Sun	Eight people, including Khorixas Town Council employees, to make appearance in court on corruption charges
Rehoboth	November 2011	The Namibian	Rehoboth Town Council accused of bankrupting the town
Khorixas	November 2011	The Namibian	The Ministry of Local Government accused of not acting against those charged with corruption at Khorixas.
Windhoek	November 2011	The Namibian	The City of Windhoek withdrew a N\$10 million tender from Amswohl & LGA Construction Joint Venture cc because the company allegedly won the tender based on false information.
Katima Mulilo	September 2011	The Namibian	Katima Mulilo Mayor John Likando has a first court appearance on charges relating to fraud and corruption. The charges date back to 2005-08 when Likando worked for the Offshore Development Company.

Rehoboth	May 2011	Namibian Sun	At least seven officials have to explain their actions at the town council to prevent corruption charges being laid against them.
Windhoek	May 2011	The Namibian	Two former employees at the City of Windhoek and a Rehoboth businessman were arrested by the ACC on a charges of tender fraud valued at over N\$5 million.
Ministry of Regional and Local Government	October 2010	The Namibian	Controversial chief executive officer of the Okahandja Municipality, Regina Alugodhi, instructed to pack her bags
Okahandja	October 2010	The Namibian	The Okahandja business community sounds alarm about state of town council and appeals to President for help
Okahandja	September 2010	The Namibian	Refusal by some Okahandja local authority councillors to endorse the re-appointment of the town's CEO
Ministry of Regional and Local Government	September 2010	The Namibian	A lack of responsibility and accountability by local authorities is solely to blame for electricity cuts at indebted towns says Ministry of Regional and Local Government
Okahandja	August 2010	The Namibian	Okahandja chief executive officer Regina Alugodhi to be grilled by fellow council members. She was suspended and resigned thereafter
Karibib	May 2010	The Namibian	Karibib's CEO, Lydia Kandetu, has been on paid suspension for the past 18 months
Usakos	March 2010	The Namibian	A group of business people in Usakos put heads together to tackle way town is being run.
Windhoek	February 2009		The City of Windhoek suspended the head of its human resources department, Heritha Sepiso, two months after police arrested her in connection with a 2004 theft case.
Keetmanshoop	November 2007	The Namibian	Keetmanshoop Municipality employee Tommy Coleman accused of embezzling over N\$700,000.
Arandis	September 2007	The Namibian	A group of Arandis residents lodge a complaint with the ACC over maladministration in the Town Council.
Walvis Bay	August 2007	The Namibian	Ratepayers Association challenges Town Council decision to give close to N\$2.8 million to its former Chief Executive Officer, Augustinus Katiti as a golden handshake.
Oshakati	August 2007	Informante	Town Secretary Oshoveli Nkenene accused of submitting false petrol claims for a business trip to Windhoek while her car was parked at home.
Henties Bay	July 2007	Republikein	Henties Bay councillors Lena //Hoëses and Anna Hamutenya accused of misusing travel and subsistence allowances. Arrested by ACC.
Kalkrand	March 2007	The Namibian	Residents protest against corruption within the village council.
Ongwediva	February 2007	Informante	The ACC launches investigation into the operations of Ondangwa Town Council following reports of corruption at the local authority.
Witvlei	February 2007	New Era	Residents call for action on corruption claims concerning village council.
Usakos	July 2006	The Namibian	President will be asked to deal with the "dirty laundry" of the Usakos Municipality by residents.
Opuwo	November 2005	Insight	The Town Clerk and Town Treasurer of Opuwo suspended amid allegations that more than N\$300,000 is missing.
Okahandja	April 2005	The Namibian	A five-month investigation into political turmoil in Okahandja's Town Council has brought to light a host of allegations involving mismanagement, questionable practices and corruption.
Ministry of Regional and Local Government	June 2005	The Namibian	Minister John Pandeni criticises local authorities for persistent mismanagement
Okahandja	May 2005	The Namibian	Chaotic scenes at Okahandja meeting called to allay accusations of corruption

**Table 2: Reports relating to governance problems at regional councils since 2005**

Authority	Date	Publication	Key allegation/subject
Omaheke	January 2012	Namibian Sun	The acting Omaheke Chief Regional Officer (CRO) confirmed the dismissal of two clerks from Epukiro settlement office
Caprivi	December 2011	Namibian Sun	Small businesses owners at Katima Mulilo are calling for the intervention of the Anti-Corruption Commission (ACC) into the allocation of tenders at the Caprivi Regional Council.
Oshana	September 2011	Namibian Sun	Pit latrine toilets in Oshakati West alleged to have been given to relatives of Regional Councillor Aram Martin.
Karas	August 2011	Namibian Sun	Former Governor of the Karas Region Dawid Boois, at the start of his trial in the Regional Court in Keetmanshoop, pleaded not guilty to 24 charges of corruption or corruptly using his office for gratification
Oshikoto	February 2011	Namibian Sun	The Oshikoto Regional Council has been left with egg on their faces after the suspension of Chief Regional Officer Tshikarepo Andjamba was found to be illegal by the Public Service Commission.
Caprivi	June 2010	Namibian Sun	Acting Chief Regional Officer of the Caprivi Region Robert Mapenzi accused of bypassing tender procedures after his company controversially won a N\$20 million tender to build 1,450 toilets in the region's rural areas.
Karas	April 2008	The Namibian	The Karas Chief Regional Officer, Salmaan Jacobs, faces a fresh corruption probe, this time for allegedly defrauding the Regional Council of N\$30 000 through a bogus gardening project.
Otjozondjupa	November 2007	New Era	Governor of Otjozondjupa Theofelus Eiseb arrested for abusing his office by claiming housing, subsistence and travel benefits he was not entitled to.
Khomas	October 2007	Informante	ACC investigates Khomas Chief Regional Officer Shikwetepo Haindongo following claims of tender irregularities
Karas	September 2007	The Namibian	Karas Chief Regional Officer Salmaan Jacobs appears in court for allegedly defrauding the Karas Regional Council of close to N\$32,000 after claiming expenses for a trip that was paid for
Karas	July 2007	The Namibian	Former Karas Governor, Stephanus Goliath was allowed to say in a government house rent free since 2004 although he was no longer in office.
Hardap	June 2007	The Namibian	Hardap Chief Regional Officer James Sankwasa and Chief Control Officer Leonard Stephanus remain suspended eight months after they were accused of storing Regional Council property on Stephanus's farm.
Karas	January 2007	The Namibian	Misappropriation of funds was reported at the Aus settlement office. An estimated N\$100,000 went missing between 2003 and 2005.
Hardap	August 2006	New Era	An independent auditor's report found that Hardap Regional Council had been defrauded of more than N\$1 million.
Khomas	July 2006	The Namibian	Khomas Regional Council official Jacqueline Hanze appears in court accused of inflating the salaries of staff members and taking at least N\$10,000 each month for herself.

## 2. Financial Issues and the Role of the Auditor General

Data collected from the Auditor General's office shows that most local authorities are not submitting their financial statements in a timely manner (see table 3). According to both the Local Authorities Act 23 of 1992 and the Regional Councils Act 22 of 1992, the deadline for submission of financial statements

to the Auditor General is June 30 each year for regional councils and September 31 every year for local authority councils.

Submitting late reports to the Auditor-General appears to be the order of the day. In 2006 the only Regional Council to submit on time was Oshikoto while from the data available only Swakopmund, Rundu and Gobabis complied with the strict interpretation of the Local Authorities Act. In 2007 it was Erongo, Swakopmund and Mariental that submitted in time, while in 2008 it was Kavango, Windhoek and Swakopmund. In 2009 it was

Swakopmund, Mariental, and Helao Nafidi that followed their respective laws. In 2010 Karas and Oshana managed to keep to the deadline while Tsumeb, Swakopmund, Gobabis and Mariental also submitted their financial statements in time. It should be noted that the assessment of local authorities is based on a limited sample of 16 authorities.

While one might expect from time to time that councils would have legitimate reasons for late submissions (and the respective laws do allow for the Auditor-General to give special dispensation), the fact that in general almost all local and regional authorities are late suggests there is a systemic problem that has not been addressed. It also indicates a lackadaisical approach to record keeping which is underlined by the numerous accounting errors and missing information in the financial statements that are delivered. Worryingly, the time lags between the statutory deadline and the date of delivery of financial statements can be as much as three years. Omaheke and Caprivi regional councils delivered their 2008 over three years late, for example. Such late accounting makes enforcing financial checks and balances very difficult while public accountability for spending is out of the question. In one case a village council, Witvlei, did not bother to deliver any financial statements for three years. In such cases any corrupt activities occurring would be almost impossible to unearth due to the complete lack of financial accountability.

The Office of the Auditor-General ascribes both the tardiness and inadequacy of much financial reporting at regional and local levels to a lack of capacity, training and skills (see Appendix B: Interview with Deputy Auditor-General Goms Manette). There is also an issue of passing the buck. Chief Regional Officers and CEOs pass financial accounting responsibilities to junior staff who are out of their depth. The result of all this is inadequate and incomplete reporting in many instances. This can result in the Auditor-General being unable to express an opinion on a host of matters and ultimately a disclaimed audit. If the errors and omissions are not enough to warrant a disclaimed audit then a qualified audit is declared. In 2008 the Office of the Auditor-General allowed sub-national authorities to keep their audit fees if they used them to train their staff. The results of this well-intentioned exercise are not clear. Certainly, any such training has not resulted in accounts being delivered to the Auditor-General in a more timely fashion.

The scope of this report did not allow for a thorough investigation of the recurring problems at sub-national authorities. However, a cursory examination of various recent audit reports tabled in parliament reveals a number of trends:

- incomplete records which result in the Auditor-General being unable to express an opinion on their accuracy;
- inadequate stock controls;
- outdated and incomplete fixed assets registers;
- payroll inconsistencies and errors;
- failure to submit tax returns;
- conflicts between bank records and receipt books;

## Worst-case scenario: Limpopo

In the neighbouring South Africa, a country regarded as having good laws and codes of conduct on paper, the Limpopo province has become a byword for corruption.

According to a recent article in the *New York Times*, the corruption crisis in Limpopo “has pushed the common practice of doling out overstuffed government contracts to people with friends in high places to its logical conclusion: bankruptcy. Provincial officials overspent their budget by an estimated US\$250 million, much of it on questionable — or blatantly fraudulent — government payments and contracts with private businesses enjoying close ties to the politicians leading the province”<sup>2</sup>.

Despite warning signs for years that Limpopo’s unauthorized expenditure was not only unacceptable but wildly out of control, only when the province was technically bankrupt did the government step in to do something. The financial fiasco has hit ordinary people hard — with funds being thin on the ground for the provision of basic services, education, and health facilities.

The warning signs are there for Namibia too. The kind of practices detailed in many Auditor-General’s reports on sub-national authorities indicate missing funds and uncontrolled expenditure that are not minor accounting glitches — but signs that the misappropriation of funds is widespread.

<sup>2</sup> Polgreen, L. (February 18, 2012). South Africans Suffer as Graft Saps Provinces. *New York Times*.

- irregularities in use of Build Together housing funds;
- lack of accuracy on records for charges on water, electricity, sewerage, and sanitation;
- irregularities concerning subsistence and travel allowances;
- general lack of supporting documentation for transactions.

It should be emphasised that these are no small matters — inconsistencies in the loan book for Build Together schemes often amount to hundreds of thousands of dollars while the fact that bank statements do not reflect amounts recorded as being received in receipt books should immediately raise alarm bells about money potentially being siphoned off.

But perhaps the most fundamental problem is that the deficiencies of the system are recurring — that is no remedial or punitive action is ever taken to correct matters. It may be that the envisaged Audit Bill will create a body that can impose sanctions against the worst offenders. However, there is no timeline for this Bill to be introduced. The Office of the Auditor-General is looking to parliament for answers, particularly the National Assembly Public Accounts Committee (PAC) (see Appendix B). All of the Auditor-General’s reports on sub-national authorities are submitted to the National Assembly for review. However,

the PAC is also currently powerless when it comes to enforcing changes or sanctions and would have its own capacity problems if it were to monitor all local authorities and regional councils continuously. The Ministry of Regional and Local Government is also seen as having a crucial role in monitoring and reviewing the governance procedures of local and regional councils

and ensuring corrective action is taken when things go wrong. Perhaps more attention should be paid to improving accounting procedures in the first place. It is clear that urgent attention should be paid to the legal framework to end the current impunity regarding irregular and late accounting, which potentially covers up past corruption and enables future graft to take place.

## Submission of Audited Financial Reports to the Office of the Auditor General from year 2006 – 2010 (red denotes submitted late)

**Table 3: Regional Councils – dates on which financial reports were submitted for each financial year.**  
Regional Councils are supposed to submit their reports by June 30 of each year.

Authority	2006	2007	2008	2009	2010
Hardap	17/01/2008	17/01/2008	11/07/2008	03/06/2010	n/a
Karas	28/01/2008	19/03/2008	12/12/2008	14/08/2009	03/06/2010
Khomas	20/09/2007	07/12/2007	16/03/2010	16/03/2010	11/10/2010
Erongo	20/11/2006	26/06/2007	16/07/2008	03/03/2011	03/03/2011
Omaheke	09/04/2009	09/04/2009	03/10/2011	03/10/2011	03/10/2011
Otjozondjupa	22/08/2007	22/08/2007	21/10/2009	21/10/2009	21/09/2010
Oshikoto	18/06/2006	20/11/2007	07/11/2008	09/11/2009	01/09/2010
Oshana	21/11/2007	21/11/2007	30/11/2009	30/11/2009	23/05/2010
Ohangwena	01/02/2007	16/12/2008	13/01/2009	24/01/2011	n/a
Omusati	21/07/2006	10/07/2007	11/09/2008	16/10/2009	27/07/2010
Caprivi	22/10/2007	27/12/2007	04/08/2011	04/08/2011	04/08/2011
Kunene	07/01/2007	07/01/2007	14/01/2009	27/01/2010	n/a
Kavango	10/08/2006	26/11/2007	19/06/2008	08/04/2010	07/08/2010

**Table 4: Class 1 Municipalities – dates on which financial reports were submitted for each financial year.**  
Local authorities are supposed to submit their accounts by September 30 each year

Financial year	2006	2007	2008	2009	2010
Windhoek	2007	01/2008	09/2010	2011	2011
Swakopmund	09/2006	09/2007	09/2008	09/2009	09/2010

**Table 5: Class 2 Municipalities – dates on which financial reports were submitted for each financial year**

Financial year	2006	2007	2008	2009	2010
Tsumeb	20/11/2006	15/06/2009	15/06/2009	09/10/2009	09/2010
Okahandja	27/12/2007	06/10/2008	02/2009	13/01/2010	21/04/2011
Karibib	15/03/2007	18/02/2010	18/02/2010	16/01/2012	16/01/2012
Gobabis	09/2006	14/11/2007	11/2008	06/04/2010	09/2010
Mariental	19/12/2007	09/2007	10/2008	25/09/2009	09/2010

**Table 6: Towns and Villages – dates on which financial reports were submitted for each financial year**

Financial year	2006	2007	2008	2009	2010
Helao Nafidi	10/04/2008	10/04/2008	31/10/2008	30/09/2009	11/02/2011
Khorixas	21/06/2007	12/02/2008	02/09/2009	15/12/2009	17/03/2011
Katima Mulilo	02/10/2007	Not within 3 months	Not within 3 months	13/03/2011	13/03/2011
Okakarara	17/04/2008	n/a	08/05/2009	05/11/2009	23/11/2010
Lüderitz	23/01/2010	23/01/2010	23/01/2010	23/01/2010	None
Witvlei	23/04/2008	23/04/2008	None	None	None
Stampriet	06/05/2008	09/2010	09/2010	09/2010	01/02/2012
Rundu	09/2006	28/03/2009	07/05/2009	30/11/2009	20/11/2010
Otavi	22/02/2008	11/2010	11/2010	11/2010	11/2010

\* The information in these tables was received from the Office of the Auditor General on March 8 2012. The information in these tables is based on a sample of 16 local authorities.

## What the laws say

Chief Regional Officers are the chief executive officers and the accounting officers of their regions. The Regional Councils Act of 1992 states that, the regional officer shall be the accounting officer of the regional council and shall as such be charged with the responsibility of accounting for all the moneys received and for all the payments made by the regional council. Section 35 of the Act states that the financial year of a regional council shall end on 31 March in each year. Section 36, subsection 1 of the Act states that the management committee shall in each financial year prepare and compile a statement of its estimated income and expenditure during the following financial year and shall submit such statement and supplementary statements to the regional council for its approval. Section 40 subsection 1 of the Regional Councils Act of 1992 states that the accounting officer of a regional council shall within three months (i.e. June 30), or a longer period that the Auditor-General may approve, after the end of a financial year of a regional council complete financial statements in such form as may be determined by the Auditor General in respect of that financial year and submit these statements to the Auditor-General. Subsection 3 states that the regional council chairperson shall submit a report to the next succeeding ordinary meeting of the regional council for consideration and to decide which steps are to be taken should the report reveal any irregularities.

The Local Authorities Act of 1992 envisages a similar role for the CEOs of local councils. The main difference is that Section 82 of the Act states that the financial year for local authorities is June 30 each year, meaning that normally the council would submit its completed annual statements to the Auditor-General by September 30 (Section 87 (1)).



### 3. Laws and Regulations

The armoury of legal instruments and regulations dealing with ensuring ethical governance at regional and local government level is relatively well stocked. Despite the existence of a good number of laws and regulations, malfeasance often rears its ugly head in the implementation of capital projects at regional and local levels. It is necessary to ask where are the current gaps and why have certain bad practices developed? Professor Gerhard Töttemeyer's assertion is pertinent when it comes to addressing governance at local and regional levels: "Councillors and public officials must be guided by a code of ethics that is transparent, relevant, realistic, mandatory and enforceable. Such a code of ethics must reflect both expectations and commitments"<sup>3</sup>. Do we have codes of ethics that are relevant, realistic, mandatory and enforceable?

#### a) Code of Conduct for Regional Councillors

The Code of Conduct for Regional Councillors was published in the Government Gazette No. 3255 of 5 August 2004. It was established under the terms of Section 9(3)<sup>4</sup> of the Regional Councils Act No. 22 of 1992. The Code deals with a myriad of issues relating to governance matters such as pursuing commercial and financial interests incompatible with official functions and duties. Most of the prescriptions aimed at fostering good governance are dealt with under General Provisions – e.g. Section 2(2) states that "a member may not-

- Be engaged in any transaction, acquire any position or function, and have any financial and commercial interests that are incompatible with his or her office, functions and duties or the discharge thereof;
- Solicit or directly or indirectly receive any gift or favour that may influence the exercise of his or her functions, the performance of his or her duties or his or her judgment; and may not
- Seek any personal favour..."

In view of the number of reported cases of suspected corruption at Regional Council level, it appears that the Code of Conduct is not being enforced. The fact that councillors do not enter into an agreement whereby they pledge to abide by the Code of Conduct suggests that it is up to the individual councillor to ensure that his/her conduct is ethical. This 'hands off approach' (until something goes wrong) has the potential to hold development projects hostage and ultimately victimise the poor. As an illustration, Section 3(s) under General Provisions of the Code

of Conduct for Regional Councillors stipulates that "a member must – declare or disclose his or her personal assets and liabilities if so requested by his or her council". Hence it could be assumed that – there is no need to disclose unless and until requested to do so by the council.

Commenting on the dangers of relying on non-mandatory compliance systems for ethics regimes, the Organisation for Economic Cooperation and Development (OECD) cautioned that "compliance systems alone can inadvertently encourage some public servants to simply function on the edge of misconduct, arguing that if they are not violating the law they are acting ethically"<sup>5</sup>. The South African Municipal Systems Act No. 32 of 2000 is instructive in terms of the way it deals with conflicts of interest at local authority level (see box) within a framework of compelling councillors to respect codes of ethics rather than passively expecting them to comply with provisions of ethical conduct.

#### b) Code of Conduct for Local Authority Councillors

Legally speaking, codes of conduct for local authority councillors do not exist. There is a version available but it is not yet gazetted and therefore legally unenforceable. Dated April 2003/ Issue 1, the Code of Conduct for Local Authority Councillors is very close to the Code of Conduct for Members of Regional Councils.

#### Municipal Systems Act of South Africa Code of Conduct for Councillors

7. ( 1 ) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:

- (a) shares and securities in any company;
  - (b) membership of any close corporation;
  - (c) interest in any trust;
  - (d) directorships;
  - (e) partnerships;
  - (f) other financial interests in any business undertaking;
  - (g) employment and remuneration;
  - (h) interest in property;
  - (i) pension; and
  - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub-item (1).
- (4) The municipal council must determine which of the financial interests referred in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

3 Töttemeyer (2008, p. 78). Regional Council and Constituency Handbook.

4 According to Section 9(3) of the Regional Councils Act No. 22 of 1992, "[t]he Minister may from time to time by notice in the *Gazette* prescribe a code of conduct for members of the regional councils".

5 <http://www.oecd.org/dataoecd/60/13/1899138.pdf> Accessed on March 08, 2012.

## The northern toilet saga

A pilot project which was aimed at addressing the need for sanitation facilities in the northern regions (these include Omusati, Oshana, Ohangwena, Kavango and Caprivi regions) of Namibia proved contentious in 2010 after allegations of conflicts of interest and financial malfeasance surfaced. The allegations mainly concerned Omusati and Oshana. The National Planning Commission released funds to the regions for the implementation of the project and the Regional Councils took charge. In some instances, projects appeared to have been handed out to associates and family members of council officials. In 2010 the ACC launched a preliminary investigation into the N\$20 million that the Omusati Regional Council spent on the construction of 60 toilets with 358 seats. As yet there has been no outcome to the probe.

Would a robust code of conduct have made a difference to the way the northern toilet saga unfolded? Probably yes, considering that conflict of interests stood out to be the main part of this case. At a risk of belabouring the point already mentioned, a pro-active approach must define laws and regulations aimed at fighting such ills as conflicts of interest and financial misappropriation – officials in positions of responsibility should be legally obliged to declare their interests through legal means immediately after assuming public office. Not only did those involved in the toilet-building scheme ensure that companies in which they have interests and their close relatives benefited, but it also became apparent that the value for money principle was negated. In one instance the cost of a pit latrine was inflated beyond belief. The Omusati Regional Council allegedly paid N\$770,000 for 12-seat pit latrine at Ondukuta in the Tsandi Constituency. Certainly such a cost is unjustifiably high for a pit latrine and the possibility that some people benefited inappropriately and fraudulently cannot be ruled out.

Writing on South Africa on a similar subject, De Visser (2006) aptly observed that “a perceived lack of responsiveness on the part of councillors towards their citizens as well as perceived alleged and proven cases of corruption and maladministration involving councillors all contribute to the perception that municipal councils are not accountable to their local communities”<sup>6</sup>. Taking De Visser’s assertion into account, it could be argued that the situation in Namibia is about more than perception in view of the plethora of reports on malfeasance and corruption at various regional councils and local authorities.

6 See Jaap de Visser (2006, p. 3). Local Accountability: Enforcing the Code of Conduct for Councillors.

## b) Public Service Act

The Public Service Act No. 13 of 1995 contains a code of conduct as an instrument of fostering and maintaining ethical conduct within the public service. But who is a public servant? Certainly, the applicability of instrument(s) aimed at ensuring institutional integrity could be impeded by the ambivalence of who the rules should apply to. Being a public servant broadly refers to any person who works for any part of the central, regional or local government, or for a parastatal<sup>7</sup>. In line with

## Municipal Systems Act No. 32 of 2000 – Schedule 1

The wording used in Schedule 1 of the Municipal Systems Act in the box on page 9 is proactive in that councillors are compelled to declare their interests shortly after assuming office. It goes without saying that a progressive piece of legislation and/or code of conduct would put regional and local authorities in a better position to manage instances of conflict of interests. The Code of Conduct for Regional Councillors in Namibia certainly needs improvement to effectively deal with such issues as conflicts of interest, accountable governance and much-needed transparency. Arguably, the absence of effective rules and regulations is one of the causes of corruption at local and regional authority level. Corruption is more likely to flourish in a sub-national authority that lacks a wide range of rules, regulations and policies that cover councillors and other officers in their work<sup>8</sup>. But, does the problem lie with lack of rules and regulations or lack of enforcement and/or implementation? Rules, regulations and policies can only be meaningful if they are enforced – if they are not, there will be no accountability and this leaves the field wide open for corrupt practices<sup>9</sup>. A closer look at the code of conduct for both regional and local authority councillors indicates that the problem is two-fold, i.e. inadequacy of the existing code(s) of conduct and lack of implementation or enforcement.

Should a regional council member contravene provisions of the Code, the prescribed punishment is a suspension from attending the council or committee meetings for a period not exceeding one month.

8 Namibia Institute for Democracy (NID), Namibia Association of Local Authority Officers (NALAO) & Management Systems International (MSI). (2003). The Namibian Resident’s Guide to Integrity in Local Government.

9 Op. cit.

7 See Public Service of the Republic of Namibia. (2003, p. 20). Being a public servant in Namibia. The pocket guide. This pocket guide was compiled by the Efficiency and Charter Unit in the Office of the Prime Minister in response to the Charter for the Public Service in Africa adopted on February 5, 2001 – Windhoek Declaration of 2001. It was developed to be an essential reference tool for all members within the employ of the Public Service. Presumably, all public servants should have a copy and must have read it.

this, regional council staff members fall well under the ambit of the Public Service Act, and their conduct should therefore also be constrained by the provisions of the Act. “The Code of Conduct forms part of the Public Service Staff Rules (PSSR E.X/II), and looks at things like:

- \* Your general responsibilities as a public servant
- \* Your involvement in political activities
- \* What to do if there is conflict of interest between your duty as a public servant and some other matter
- \* How to use government money, property, goods and services
- \* Managing official information
- \* Making statements about official matters
- \* Accepting gifts or benefits
- \* Work outside the Public Service
- \* Official hours of attendance at work
- \* Dressing in a professional and suitable way
- \* Discrimination, and
- \* Harassment of any kind

Whether or not the dissemination of pocket guides on ethical conduct to public servants is accompanied by rigorous training to foster understanding is an important question. With unethical conduct at all levels of government, it would not be out of place to speculate that the instruments in place are yet to yield desired results. Therefore, dissemination of materials aimed at fostering ethical behaviour should ideally be followed by impact evaluation. Jeremy Pope & TI (2000) assert that for the codes of conduct/ethics to be effective, they should be publicised throughout an organisation and its external stakeholders (including the general public), so that everyone is acquainted with its content. “More than this, there should be regular training, so that groups of officials come together from time to time to talk through dilemmas drawn from real life”<sup>10</sup>. Did the dissemination of the Pocket Guide result in reduced instances of unethical conduct? Is the Guide understood? If we are unable to provide an affirming answer to these questions, then reprinting the pocket guide is indeed an exercise in futility if not outright waste of state resources<sup>11</sup>.

## 4. Decentralisation Policy and Accountability

Over the past few decades, there has been a trend towards decentralisation motivated by disenchantment with centralised models of governance. Proponents argue that the effective decentralisation of political, administrative and financial

10 Pope, J., & TI. (2000, p. 186).

11 Op. Cit.

## OECD Principles for Managing Ethics

1. Ethical standards for public service should be clear.
2. Ethical standards should be reflected in the legal framework.
3. Ethical guidance should be available to public servants.
4. Public servants should know their rights and obligations when exposing wrongdoing.
5. Political commitment to ethics should reinforce the ethical conduct of public servants.
6. The decision-making process should be transparent and open to scrutiny.
7. There should be clear guidelines for interaction between the public and private sectors.
8. Managers should demonstrate and promote ethical conduct.
9. Management policies, procedures and practices should promote ethical conduct.
10. Public service conditions and management of human resources should promote ethical conduct.
11. Adequate accountability mechanisms should be in place within the public service
12. Appropriate procedures and sanctions should exist to deal with misconduct

The Public Management Committee of the Organisation for Economic Cooperation and Development (OECD) 1998

authority results in more equitable and efficient service delivery, improved policy making through increased public participation in decision-making and more accountable local government. At the same time, critics note that decentralisation is rarely implemented effectively. Very often, sufficient resources, decision making authority or capacity building initiatives do not accompany the new local government responsibilities. Moreover, in the absence of clear standards and benchmarks for accountability, decentralisation carries the risk of increased local corruption and the misallocation of resources to favour local elites and wealthier populations who have greater political influence than do the urban and rural poor<sup>12</sup>.

There was the perception that monolithic government breeds high levels of corruption and lack accountability. But

12 V. Olivier, 2004, “The State of Decentralisation in Namibia, University of Namibia

## Lessons from Australia and Canada

Australia and Canada's Ethics Systems present two approaches to managing ethics in public service – the latter follows a less legalistic framework while the former's is built around principles in that there are stand-alone pieces of legislation aimed specifically at articulating the expected conduct from those entrusted with public office and positions of power. As Pope & TI (2000) remind us, Queensland is the only jurisdiction in Australia, and among the few in the world, to have enacted specific legislation for ethical conduct in public management:

“The Public Sector Ethics Act 1994, and its companion piece, the Whistleblowers Protection Act 1994, are Australia's first examples of specific ethics legislation which aim to ensure high professional standards in the public sector by requiring Chief Executives of Departments to develop codes, to have them accessible to staff and to the public, to institute training, and to include an implementation statement in the department's annual report”.

There are four (4) ethical principles that underpin the Public Sector Ethics Act 1994, and they are contained in Part 2 (4) (2) “The ethics principles are –

- § Integrity and impartiality
- § Promoting the public good
- § Commitment to the system of government
- § Accountability and transparency

These principles are in turn translated into ethical values, spelling out what exactly is meant under each ethical principle and the concomitant expected conduct. The latter simplifies the implementation process by eliminating any ambivalence vis-à-vis the expected behaviour which corresponds with the intention of the ethical principles.

Canada's federal government has taken an approach that presupposes that public officials do want to follow ethical conduct. “For this reason it has chosen not to take the other major approach to ethics, that is, rigidly codifying ethical behaviour...” A number of provinces and the Federal government in Canada have introduced posts to provide guidance on ethical matters to parliamentarians and senior public officials – these positions are variously titled as Ethics Commissioner; Integrity Commissioner; Conflict of Interest Commissioner; Commissioner of Members' Interests or Ethics Counsellor.

can decentralisation be a useful way of reducing corruption or whether corruption might actually increase as political power shifts downwards. Opinions often vary with some authors giving an optimistic assessment of the impact of decentralisation on corruption while the pessimistic ones argue that decentralisation has little or insignificant, context-sensitive impact. Yet another group argues that decentralisation worsens the problems of corruption and cascades it to the lower levels.

Under decentralisation, citizens should have expanded powers to hold political leaders accountable through generic legislation empowering citizens to demand explanations and justifications from local governments, specific bodies and processes for citizen oversight, and formal bodies or processes for citizen oversight mechanisms. This is done through a form of legislation which empowers citizens to demand accountability<sup>13</sup>.

Some initiatives introduce legal mechanisms empowering citizens to redress grievances or request explanations of municipal legislation. Public hearings and consultations, the right to demand a public hearing, public petitions, and the right to initiate a recall or referendum are examples. Participatory budgeting across the world provides an opportunity for citizen oversight of municipal resources, addressing the problem of capture by elites. Although the ultimate decision power over the budgets rests with the parliament, the process can give marginal groups a direct voice in the decisive preparatory phase of budget preparation<sup>14</sup>. This enables the regional councils to get feedback from the public and the public will also have a platform to engage the

13 Baltaci, Mustafa, and Serdar Yilmaz. 2006. “Keeping an Eye on Subnational Governments. Internal Control and Audit at Local Levels.”

14 Ahmad, Junaid, Shantayanan Devarajan, Stuti Khemani, and Shekhar Shah. 2005. “Decentralization and Service Delivery.”

council if there are any suspicions of misconduct on the part of the council.

Fiscal decentralization depends on the ability of local governments to manage revenues and expenditures effectively, requiring strong institutions for financial accountability. Weak or absent local public financial management systems are likely to erode any benefits that might be realised from bringing public services closer to local communities<sup>15</sup>. Without sound local public financial management systems, financial accountability cannot be ensured, because local governments are vulnerable to waste, corruption, and inefficiencies. The weaknesses range from a lack of control systems for safeguarding against abuse, misuse, fraud, and irregularities, to inefficient cash management, collusive practices in procurement, and weaknesses in internal control and audit<sup>16</sup>.

The Decentralisation Enabling Act of 2000 attends to delegation and devolution of resources and functions by central government to regional and local authorities.

According to the Act No. 33 of the Decentralisation Enabling Act of 2000, delegation means the transfer by the Minister, by means of decentralisation of a function from a Line Ministry to a regional council or to a local authority council, as the case may be, in order to empower and enable the regional council or local authority council to which the function has been decentralised, to perform the function as an agent on behalf and in the name of the Line Ministry, and “delegate” has a corresponding meaning;

Devolution means the transfer by the Minister, by means of decentralisation, of a function from a Line Ministry to a regional council or to a local authority council, as the case may be, in order to empower and enable the regional council or local authority council to which the function has been decentralised, to perform the function for its own profit or loss, and “devolve” has a corresponding meaning.

Scholars have argued that decentralisation in Namibia has been focussing on transfer of functions rather than transfer of powers, which implies here that regional and local authorities are merely reduced to recipients of pre-determined decisions of the central government because the central government still remains the residual power that local authorities require to drive processes at local level to convert functions they carry out to a local content and all such things<sup>17</sup>.

Decentralisation legislation is silent as to whether or not such power that should be associated with carrying out of functions will be decentralised to regional and local authorities. This means that at the moment the government remains with the control of powers as opposed to the regional and local councils. If

functions are to be devolved the recipients of those functions should be empowered so that they customise those functions to meet the local needs.

The danger for Namibia is that given the parlous state of financial controls at many sub-national authorities – as indicated repeatedly in the Auditor-General’s reports – decentralisation could simply mean that larger amounts of funds are unaccounted for. Therefore decentralisation has to be linked to capacity building, training and the development of local accountability systems. Efficient administration of subsidies transferred from central government for delegated functions is likely to remain a major challenge especially for sub-national authorities lacking in skilled personnel.

## 5. The role of citizens in holding local and regional authorities accountable

Over the past decade and a half the focus of transparency, both as an aspect of improving governance and combating corruption, has been at the national level, mainly associated to the global trend of democratisation, pluralism and improved corporate governance. In some sense, this is understandable because corruption – the most conspicuous consequence of lack of transparency – is often most visible at the national level, and because national level institutions such as the executive, legislature or judiciary have been the traditional entry point for tackling corruption. Lately, however, there is a shift towards enhancing transparency at the local level. It is being increasingly recognised that building transparency is important for addressing some of the major challenges to sustainable development at the local level.

In a democracy, public leaders and officers have to be accountable to the people they serve. Being accountable means that public leaders and officers have to be able to give a logical and acceptable explanation of their actions to the people that they serve. Local authority officers and Councillors should at all times be transparent about what they do, and be accountable to the community for their actions. However if residents do not demand that the local authorities be accountable to the community, corruption may flourish. Rules, regulations and policies only have meaning if they are enforced. If they are not, there is no accountability, this leaves the field wide open for corrupt practices. Residents ensure their local authorities remain accountable by keeping a check on them to ensure that corrupt practices do not take place.

15 Op. Cit.

16 Baltaci, Mustafa, and Serdar Yilmaz. 2006. “Keeping an Eye on Subnational Governments. Internal Control and Audit at Local Levels.”

17 V. Olivier, 2004, “The State of Decentralisation in Namibia, University of Namibia

Citizen participation has not been effective and some argue that although local and regional councils are supposed to hold regular meetings with their communities, they often do not take place. There have been reports that some regional councils conduct council meetings at awkward times, in unsuitable places without even publicly announcing such meetings to the public. Council meetings are supposed to be public. Councils should be making decisions in front of their own people.

## 6. Public Procurement at Regional and Local Authorities

Undoubtedly, the area of public contracting is the most vulnerable to corruption. The procurement of goods and services brings into play the nexus between the public and the private. For when the public sector seeks to procure goods and services, the private sector is always, if not in most instances, the supplier. Through this interface, money inappropriately change hands, bribes are offered, bribes are solicited and capital projects are hijacked for self-enrichment. Perhaps this is more pronounced at regional and local levels of governance. Time and again, officials manipulate tenders to get on the gravy train. But let's take a look at the laws and regulations governing public procurement at regional and local level, for they could be the culprits that make getting on the gravy train easier.

As part of the decentralisation drive, regional councils and local authorities have Tender Boards of their own – tasked with handling procurement matters in their respective jurisdictions. In terms of composition, Tender Board Regulations No. 43 of 2001 as set out in Government Gazette No. 2492 provide for a seven (7) members regional tender board. These include a regional officer (chairperson), four (4) staff members of the regional council (nominated by the regional officer), and any other two persons other than staff members of the regional council. The regional tender board shall not have less than two women. Upon closer examination, the manner in which the tender board composition is arrived at leaves much to be desired. Seemingly, the chief regional officer is given too much latitude to decide the mix of the regional tender board. At a risk of sounding cynical, it is perhaps not misplaced to speculate that giving the regional officer powers to decide more than half of the regional tender board amounts to an inherent flaw which could well result in formation of cabals. It is hope the new procurement bill expected to be tabled in 2012 will address this issue.

## 7. Conclusion and recommendations

The importance of tackling corruption at sub-national levels of government does not receive as much attention as national-level anti-graft efforts. Many corruption cases affecting local and regional authorities occur beneath the radar and if they do reach the national spotlight they are often only referred to in passing with few follow-up media reports appearing. Anti-corruption legislation, regulations, and initiatives at local or regional level are often not developed and promoted with the same vigour as national level responses to corruption. With little attention being paid to the activities of many local and regional authorities, inadequate regulations in place, and council staff teams sometimes short of key personnel and lacking specific skills, the scene is set for corruption to take place. Decentralisation creates an added risk as more powers and responsibilities are transferred to local and regional levels but potentially without the introduction of stronger accountability measures or the training and capacitating of staff to deal with these new tasks in a manner that closes rather than opens up the space for corrupt activity. For example, are the finance officers at regional and local authorities trained to handle financial reporting in ways that meet the requirements of the Auditor-General? The constant references in the Auditor-General's reports on sub-national authorities to missing information, inadequate controls, and other irregularities would tend to indicate that such staff are often not equipped to submit comprehensive and accurate financial reports thereby limiting the effectiveness of fiscal oversight.

Law enforcement agencies, including the Anti-Corruption Commission (ACC), should also be active in all regions so that the reporting of suspected corruption is a straightforward process. In addition, the Office of the Ombudsman could also have an official presence in the regions to enable citizens to report matters that might not be corruption *per se* but fall under the Ombudsman's mandate to investigate the abuse of power, unlawful conduct by officials and misappropriation of public funds.

The decision-making processes and activities of local and regional authorities are often opaque – with the average citizen remaining unaware of Council proceedings and plans that could dramatically affect grassroots communities. Access to information remains a stumbling block in Namibia with information held by public bodies not being seen as a public good which should be accessible. Greater transparency and access to the local and regional level of governance will lead to greater accountability. This can be as simple as ensuring communities are notified of Council meetings and of how they can contact their local councillors. Increasingly, websites are becoming crucial means of providing information to citizens. As online access increases in Namibia, government services should be offered online to reduce the amount of time it takes for citizens to secure licences, permits,

and other necessary documents. In general, local and regional authorities can lessen opportunities for corruption by reducing the time and steps required for any bureaucratic procedure.

It is against this background that regional and local authorities should be effectively monitored and held accountable so as to reduce the risk of corruption and boost public trust in elected politicians and key policy implementers. The cost of corruption often falls on the ordinary honest citizen through loss of efficiency in service delivery by the public sector.

Transparent and accountable governments ensure effective service delivery to communities on the ground. Increasing reports of corruption at local and regional levels of governance combined with a lack of transparency about finances makes the introduction of a series of anti-corruption measures in Namibia more urgent. For example, there have been a number of media reports about the administration of sanitation projects by regional councils citing instances in which tenders were allegedly granted to close relatives of council officials. An improvement in governance is critical in fostering a healthy relationship between citizens and government.

### **Accountability**

- Citizen participation in decision-making processes is vital at regional and local level. Emphasis should be placed on ensuring that structures such as Regional Development Coordinating Committees, Constituency Development Committees, and Village and Settlement Committees are set up and working effectively.
- Information about council meetings, consultative processes and decisions should be widely disseminated to local communities via more traditional means (notices on local language radio stations, printed notices etc) and using new technology such as SMSs and social media.
- Council meetings should be well advertised and community representatives invited to attend to ensure there is an atmosphere of openness and accountability concerning the decision-making and activities of the sub-national authority.

### **Financial management**

- Chief Regional Officers and CEOs of Councils should take responsibility for ensuring officials representing the Auditor General are given all the information they require for meaningful audits to take place and should ensure the Auditor-General's recommendations are implemented.
- The Ministry of Local and Regional Government and the Office of the Auditor-General should work together with sub-national authorities to ensure skills gaps are filled so that councils have the necessary capacity to ensure financial accountability.

- The Ministry of Local and Regional Government should play an oversight role – ensuring that council proceedings are properly organised, recorded and reviewed and that remedial action is taken when sub-national authorities do not comply with monitoring requirements. The Ministry should take immediate action when local or regional councils are found to be acting beyond their authorities.
- The Anti-Corruption Commission should examine the Auditor-General's reports for indications of corrupt activities with a particular focus on those reports that have been disclaimed or qualified due to significant omissions and errors.
- Government should expedite the introduction of an Audit Bill that would ensure punitive action can be taken against sub-national authorities and individuals who are deemed to have been responsible for financial mismanagement, loss and waste of funds, and other significant irregularities

### **Ethical conduct**

- The Code of Conduct for Regional Councillors should be reformed so that compliance is mandatory and penalties are attached to non-compliance. The system for declaring assets and interests should not be left to the whims of individual councillors or officials but rather be a mandatory requirement which is monitored by an appropriate oversight body. Similarly, the Code of Conduct for Local Authority Councillors should be made mandatory. Registers of Councillors' Interests should be made public as an extra accountability measure – by being made available for inspection at council offices and also placed online.
- Sub-national authorities should be given the tools to proactively manage potential conflicts of interest through comprehensive and enforceable codes of conduct and registers of interests and assets. Public scrutiny should be encouraged through policies of openness regarding information. One possibility is to appoint an Ethics Commissioner to provide oversight.

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# APPENDIX A:

**Extracts from an interview conducted with the Pro-Vice Chancellor for Finance and Administration of the University of Namibia, Dr. Boniface Mutumba, on February 28 2012. Dr. Mutumba is the former Town Clerk for Gobabis and the former Chief Regional Officer for the Kunene region.**

**IPPR: Good governance has been hard to attain and maintain at both regional and local levels of government. What is your assessment of corruption at regional and local levels of governance in Namibia?**

**Mutumba:** The concept of corruption takes different forms. Within the local governance setting, one may define it to refer to the application of unlimited discretionary power in the execution of duty without accounting to a third party. In other words, those that are elected who then set the mandate to govern outside the scope of the authority that is vested in them – without exercising accountability both to government and to the electorate. So it's from that angle that we can say it is really a problem. And it has extended beyond the expected horizon by virtue of the fact that there are no proper checks and balances ... in other words, local authorities are left on their own to operate without being checked and properly monitored by the central government – the Ministry of Regional and Local Government. Although legislation that regulates activities at local level may be in place – the means of communication that are in place are not utilised by the Ministry to keep control and checks upon the operations of local authorities. So, officials and councillors do what they want and, as a result, corruption becomes rife.

**IPPR: What role should the Ministry play in stimulating positive governance and would you say this role is effective?**

**Mutumba:** The Ministry, instead of taking control, should be acting as supervisors who monitor operations. The minutes of regional councils and local authorities that are sent to the Ministry on a monthly basis should be properly reviewed and remedial action be promptly taken ... decisions and actions taken *ultra vires* should be immediately detected.

**IPPR: Because local and regional leaders are politicians affiliated to the various major political parties in the country, what role can and should political parties play in ensuring that their representatives conduct themselves in an ethical and professional manner?**

**Mutumba:** Political parties should understand what their roles are in the governance process, they should understand what the role of an elected leader at regional and local level is, they should understand the electoral system, they should understand the constitutional provisions, they should understand the enabling pieces

of legislation that govern activities so that they can be in position to mentor their own party members towards doing what is right and what is legally excepted in terms of the highest law of the land, which is the constitution and all other laws of this county. It's only if they understand what is expected of those people that they can be able to guide them.

**IPPR: How effective has citizen participation been in local governance, particularly in holding local and regional authorities to account?**

**Mutumba:** It has not been effective so far. Although regional councils are supposed to hold regular meetings with their communities, in some cases and in some regions these are not taking place. Number two, the regional councils conduct council meetings at awkward times, in wrong places without even announcing such meetings to the public. That is when members of the council can be in a position to indicate and reflect how they make decisions on behalf of their people. They should be doing this in front of their own people with their own involvement. Community members will never know what projects and amenities are there for them as they are never consulted on what they want. A council can decide to build tarred roads people that live in informal settlements when such people themselves don't have cars, basic houses, electricity and water services. The mere fact that decide on behalf of people without consulting them, this tells the story that regional and local authorities to date have not effectively ensured civic or community participation in the governance process.

**IPPR: Are the Association for Local Authorities in Namibia (ALAN) and Association of Regional Councils (ARC) effective and efficient entities that are fulfilling their mandates?**

**Mutumba:** They cannot be. They have never been and they won't be unless we apply remedial actions. Remember that such associations are bodies that are part and parcel of the informal arrangements of government through the Ministry of Regional and Local Government. In other words they are informal structures, and I regard them as illegitimate in the sense that they are not contained in the legislation that governs regional and local authorities. As a result of this, the Ministry makes policies that affect regional and local authorities without seeking recourse to those associations which are supposed to be the mouthpieces of both these entities at sub-national level. They are not bound to consult them, they are not bound to involve them, because they are not bound to do so by the legislation. So these are bodies created in fact on the basis of a gentleman's agreement and their relationship is not legitimate and it's not legal because it's not regulated.

## APPENDIX B:

**Extracts from an interview conducted with Deputy Auditor General Mr. Goms Menette on March 19 2012.**

**IPPR: What role does the Office of the Auditor General play in tackling corruption at regional and local government level?**

**Menette:** The role of the Office of the Auditor General is to conduct audits and to report to parliament. It is not our mandate to fight corruption and that is in the hands of the Anti-Corruption Commission. However when we conduct our audits, we sometimes discover practices of corruption and then we investigate it, see whether there is any evidence to that effect and then forward it to the Anti-Corruption Commission for them to take it further.

**IPPR: What problems does the Auditor General's Office experience when auditing Local Authorities and Regional Councils?**

**Menette:** There are various problems. The first is that sometimes it happens that the CEOs are not available to assist us with the necessary information. Sometimes they refer us to junior staff and that also becomes difficult, because junior staff are not able to answer our questions, that's the first problem. The other issue is understanding the accounts and how they are supposed to be accurate. We also find that sometimes the records are incomplete ... then it's difficult for us to make an audit – that is why most of the time you find we give a disclaimed audit opinion because we are unable to do the audit.

I think the problem is the issue of capacity. They don't really have the basic accounting background for them to correctly take accounts of transactions happening within the local authority. In 2008, the Auditor General exempted local authorities from paying their audit fees so that they could use these audit fees to train their staff members to build capacity. It was actually for five years and we are almost at the end of the fifth year. We will see as to whether there have been any improvements in record keeping. If not we will review the decision and see whether it should be extended further for another five years to at least ensure that they are able to keep records of all the transactions that are happening within the local authority.

**IPPR: As far as financial management is concerned at regional and local authority levels, are the frequent and serious problems encountered more at village, town, municipality or regional council levels, and what is the nature of these problems?**

**Menette:** I think the biggest problem is the village councils. As I said the issue is one of capacity building. They are not able to

keep their accounts correctly so most of the disclaimed audits concern the village councils.

**IPPR: The problems that emanate from audited reports, are they addressed and if so by whom, or do they simply become recurring problems?**

**Menette:** I think they are becoming recurring problems really. We find the same issues are not being addressed.

**IPPR: According to the Acts that govern activities at regional councils and local authority levels, for the regional councils their financial year ends on the 31<sup>st</sup> of March, meaning they have three months to submit, for local authorities it is the end of June, meaning they have time up to September to submit but, it is evident in various documents that submissions are always made very late are there any penalties that are imposed for late submissions?**

**Menette:** No, there are no penalties attached to that. All we do is state in the reports that this authority was supposed to have submitted their reports by a certain time. We are reporting to parliament and it is for parliament to decide what to do with the local authorities [that submit late].

**IPPR: What recommendations do you have for a stronger legal framework that would provide penalties and sanctions for authorities that mismanage their finances?**

**Menette:** I think that there should be a body at parliament that is given the mandate to prosecute or to call all in [the offending authorities] and discipline them.

**IPPR: Do you mean a parliamentary committee on public accounts for example?**

**Menette:** They can be given the mandate to enforce the implementation of the recommendations we are making. If you are going to make it a legal issue that will take some time, you have to go through all the legal processes ... but I think one would have to look at the legal framework – to give certain body a mandate and the powers to be able to really ensure implementation of the [Auditor General's] recommendations

# APPENDIX C:

## Ethics in South Africa – Disseminating the Code of Conduct and evaluating its impact

The White Paper on the transformation of the Public Service in South Africa (1994) made provision for the development of Codes of Conduct in the workplace. The then Public Service Commission (PSC) developed a Code of Conduct, which was promulgated in 1997. It was intended that this Code of Conduct would be made known through an intensive workshop programme throughout the public service, and would thus be the vehicle to operationalise professional ethics in the public service.

The PSC conducted workshops with national departments and a workshop programme for Provincial Administrations, which involved Premiers, MECs, and Directors-General. The primary purpose of the workshops was to inform managers about the contents of the Code of Conduct and to generate practical ideas for its implementation. The workshops were attended by well over 800 managers, who were responsible for cascading the outcomes to all levels of the departmental administrations. At each workshop the Commission also assessed the progress already made by the participating departments in the implementation of the Code of Conduct.

The positive way in which the code was received at both provincial and national levels of governance was indeed indicative of the impact which professional ethics has made generally and in the public sector in particular. Successful training events and workshops specifically tailored to deal with anti-corruption issues were conducted throughout the country and the code was translated into all the official languages, and into Braille. An explanatory manual on the code was produced in 2001, aiming to promote practical understanding of the stipulations in the Code of Conduct. It serves as guide to employees to understand and resolve ethical dilemmas in their daily work. The manual also serves as an aid in the development and teaching of short courses for employees, particularly at the induction stage. One million pocket-sized booklets have been produced by the Public Service Commission for distribution to all public servants.

The Code of Conduct and the Explanatory Manual; the National Ethics Survey undertaken by the Public Service Commission in collaboration with KMPG and Transparency South Africa; and the research on the existence, functioning and management of hotlines conducted in 2001 and 2002, illustrate the impact of professional ethics awareness on the public service. The development of whistle-blowing mechanisms and the management of the asset register are indicative of the meaningful contribution this ethics principle is making to professional integrity and excellence.

The key achievements of the South African Ethics system are:

- Most public and private organizations have some form of Ethics Code.
- A Code of Conduct for the Public Service has been developed and communicated, with training and manuals. Most departments have implemented it.
- An Ethics System and Code of Conduct for Parliament has been implemented.
- Senior management members in the Public Service are required to disclose their interests.

There are also some weaknesses in the process, however. These include:

- Managing discipline in the public service, especially in the light of reluctance by some senior managers to take disciplinary action against employees who have violated ethical standards.
- Lack of encouragement of employees to blow the whistle on unethical conduct in the workplace.
- Financial risks given far more attention than reputational risks.
- Lack of full disclosure of interests both in Parliament and in the public service.
- Exclusion of local government and many organs of the state from the process.
- Poor integration of ethics management practices as an integral part of all processes within the public service.

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## About the Authors

**Ellison Tjirera** joined the IPPR in early 2011, after spending a year as a Researcher at the Ministry of Gender Equality and Child Welfare. He had previously been a Research Associate at the IPPR in 2009. He co-authored the IPPR briefing paper *Not Speaking Out: Measuring National Assembly Performance* and later went on to complete research on Gender and Parliament commissioned by the government and UNFPA. While at the IPPR, Tjirera was a participant in the Afrobarometer Summer School (2009) at the University of Cape Town's Centre for Social Science Research and won the 'Best Research Question Prize' with his paper entitled, *Women's Parliamentary Representation and the Perception of Women's Empowerment: Is There Any Relationship?* Tjirera is currently an MA (Sociology) student at the University of Namibia. For the IPPR's Anti-Corruption Research Programme he has specialised in researching codes of ethical conduct, conflict of interest, public procurement and governance at the sub-national level.

**Malakia Haimbodi** obtained his Bachelors of Public Administration from the University of Namibia (Unam) in early 2011. He previously gained a diploma in Local Government Studies in 2007 also from Unam. He is currently pursuing a Masters in Public Administration at Unam. Since early 2011 he has been a Research Associate for the IPPR, working on the African Governance Report, which involved carrying out a survey of 120 experts on Namibia's political affairs, and the Anti-Corruption Research Programme – specialising in public procurement and governance at the sub-national level.

**Graham Hopwood** has been the Executive Director of the IPPR since early 2008. He was previously the Manager of the Public Dialogue Centre at the Namibia Institute for Democracy and a freelance researcher and lecturer. Hopwood worked as a journalist and sub-editor at The Namibian newspaper from 1992 to 2004. He has published widely on governance issues in Namibia including the popular *Guide to Namibian Politics* (2004, 2006, 2007, 2008) and *Tackling Corruption: Opinions on the Way Forward in Namibia* (NID 2007). He coordinates the IPPR's Anti-Corruption Research Programme.

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## About the Anti-Corruption Research Programme

The IPPR's Anti-Corruption Research Programme will focus on strengthening anti-corruption regulations, procedures and practices.

The Programme will provide a stocktaking of anti-corruption efforts so far, examine policy options for the future and recommend ways in which Namibia can ensure that the anti-corruption campaign retains public confidence and political support and is ultimately successful in reducing corrupt practices in Namibia.

The programme will pursue the following objectives.

1. Produce rigorous, detailed and accessible research on issues that contribute to the strengthening of anti-corruption systems, procedures and practices in Namibia
2. Raise awareness and debate among Namibian policymakers, politicians, civil society activists, students, journalists, the business community and interested members of the public about effective anti-corruption strategies and policies that could be deployed in Namibia.
3. Seek to partner with agencies involved in tackling corruption in Namibia, in particular the ACC, other civil society groups active on the issue and policymakers who can play a role in ensuring anti-corruption mechanisms in Namibia are effective.

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## About the IPPR

The Anti-Corruption Research Programme is a project of the Institute for Public Policy Research (IPPR). The IPPR can be contacted at PO Box 6566, Windhoek, Namibia. Tel: +264 61 240514, Fax: +264 61 240516, [info@ippr.org.na](mailto:info@ippr.org.na). The publication is also available as a PDF download from <http://www.ippr.org.na>. The IPPR's mission is to deliver independent, analytical, critical yet constructive research on social, political and economic issues that affect development in Namibia. The IPPR was established in the belief that development is best promoted through free and critical debate informed by quality research. The IPPR is a not-for-profit organization governed by a board of directors: Monica Koep (Chairperson), Daniel Motinga, Bill Lindeke, André du Pisani, Robin Sherbourne, Graham Hopwood and Ndiitah Nghipondoka-Robiati.