

2020

**FROM OUTRAGE TO ACTION:
Namibian Civil Society and
the Struggle Against Corruption**



Image by Steve Buissinne from Pixabay

BY FREDERICO LINKS

IPPR ANTI-CORRUPTION RESEARCH PROGRAMME

FROM OUTRAGE TO ACTION: Namibian Civil Society and the Struggle Against Corruption

1. Key Observations

With corruption having increasingly become a topical issue of public concern over recent years, the question has often been asked why Namibian civil society has not formed an organised anti-corruption platform that speaks to general public sentiments around corruption.

It is clear that opportunities have been missed, both by civil society and by government authorities and agencies, over especially the last five years, to come together and take symbolically significant stands on corruption and introduce strong, effective interventions.

Arguably, the main missed opportunity was the now lapsed National Anti-corruption Strategy and Action Plan 2016-2019¹.

Already in 2017, shortly after the plan was implemented, the IPPR called on civil society not to let the opportunity pass by, stating: "Civil society and the Namibian public must do their part. This plan contains many laudable objectives, as well as clear deadlines for their implementation. The media should follow up on progress on this front. Civil society should act as a watchdog and support the implementation when called upon – including active participation on the Steering Committee. And citizens should demand the plan is properly implemented, for it is they who will ultimately benefit from successful reforms."²

With the National Anti-corruption Strategy and Action Plan 2016-2019 having come and gone, it is necessary to take stock of why civil society has not been able to capitalise on it.

In short, the issue of taking a stand on the anti-corruption landscape is not a straightforward one, as the Namibian civil society space is beset by a myriad of challenging factors and circumstances – funding, capacity, etc. – which impact to what extent any one actor or sector can engage and participate in issues of national concern, such as fighting corruption. It is necessary to explore and understand these dynamics.

Against this backdrop, this paper foregrounds the United Nations Convention Against Corruption (UNCAC)³ as the standard bearer, even though also somewhat flawed, for encouraging greater and more meaningful civil society participation in states' anti-corruption efforts and activities. It is in the context of UNCAC that the absence of a meaningful Namibia civil society anti-corruption platform or presence is questioned and discussed.

2. Recommendations

It is recommended:

For Namibian civil society:

- That Namibian CSOs thoroughly acquaint themselves with the United Nations Convention Against Corruption (UNCAC), as well as other international and regional instruments, treaties and conventions, and the immediate and recurring obligations and processes affecting Namibia;
- That Namibian CSOs, once acquainted with Namibia's obligations under regional and international instruments, treaties and conventions, look to assert and insert themselves at national level into such processes and become vocal on Namibia's anti-corruption obligations;

¹ This will be discussed further in section '5. What Namibian legal frameworks says on civil society involvement in anti-corruption'.

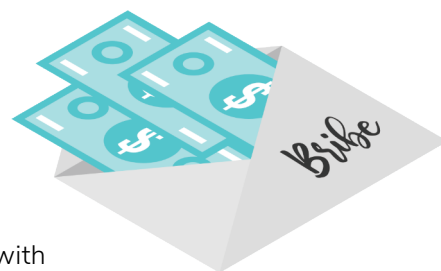
² See: 'The Namibian Anti-Corruption Strategy 2016-2019: An overview and analysis'. https://ippr.org.na/wp-content/uploads/2017/05/IPPR_AntiCorruption2017_WEB.pdf

³ See: United Nations Convention Against Corruption (UNCAC) https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

- That Namibian civil society thoroughly acquaint itself with best practice, knowledge resources, experiences, and tools already in existence and being deployed by CSO actors around the world in the fight against corruption locally and globally;
- That Namibian CSOs articulate coherent and widely endorsed positions on corruption and anti-corruption in Namibia and formulate among themselves an anti-corruption platform from which to drive civil society's anti-corruption positions and messages to government and the general public;
- That Namibian civil society, once a common platform has been established, seek to elevate Namibian voices and positions on corruption to regional and international levels by entering strategic coalitions and alliances at regional and international levels;
- That Namibian civil society seek to create and maintain relations, platforms and regular communication and correspondence with relevant Namibian government authorities and agencies, such as the Anti-Corruption Commission, in order to foster a culture of proactive, multi-stakeholder engagement and accountability on anti-corruption matters.
- That Namibian civil society develop the necessary skills and capacity to undertake both rigorous research and investigations focussing on removing corruption risks and exposing actual cases of corruption.

For Namibian government authorities and agencies:

- That state law enforcement authorities and agencies fully recognise the important role of civil society, as articulated in various regional and international instruments, treaties and conventions, in not just anti-corruption, but the general context of fostering good governance, both in the public and private sectors;
- That state law enforcement authorities and agencies cooperate with and harness civil society platforms to reach wider grassroots and strategic audiences and sections of society to communicate their intentions and activities around anti-corruption and to draw such audiences and actors into such efforts and initiatives;
- That the Namibian government make every effort to ensure it meets and complies with all its anti-corruption obligations under regional and international instruments, treaties and conventions, including and especially the UNCAC, and in this context, especially in the sphere of cooperating with civil society in giving greater force and credibility to national anti-corruption initiatives and efforts;
- That the Namibian government make every effort to strengthen domestic anti-corruption law, policy and practice towards engendering good governance and rule of law, and trust in state institutions, as well as in pursuance of optimal public interest and well-being.



For the other stakeholders:

- That development partners and donors should ensure that civil society organisations are funded adequately to run campaigns on corruption and to have the capacity to investigate and research corrupt activities.
- That the private sector should recognise the importance of supporting campaigns and civic education relating to improved governance. It is in their interests to also support activities that will result in a reduction in corruption.

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3. Introduction – Civil society and anti-corruption

Is there a place for civil society in anti-corruption work? Most definitely.

“Civil society has a key role to play in fighting corruption, from monitoring public services, denouncing bribery and raising awareness to contributing to the implementation of international anti-corruption instruments, such as the UNCAC,”⁴ states Transparency International (TI) in 2016, for the u4 Anti-corruption Resource Centre at the Norway-based Christian (Chr.) Michelsen Institute (CMI), in response to a question on the place of civil society in states’ anti-corruption efforts.

In a separate guide⁵, from 2015, on civil society participation in anti-corruption activities, TI states: “While governments are responsible for leading efforts to stamp out corruption in the public and private sectors, over the course of many decades, local, national and global CSOs have repeatedly demonstrated their ability to make a valuable and unique contribution to the fight against corruption.”

Continuing, the global anti-corruption watchdog, elaborates: “CSOs with specific anti-corruption expertise, community-based networks and the media have all been important partners to such institutions [anti-corruption bodies]. The diversity within civil society groups has also been a key element of its usefulness in the fight against corruption. Corruption is often most harmful to those who are most vulnerable within society, for example, indigenous groups, women, low-income workers and the rural poor. The capacity of civil society groups to build trust within such communities and champion their issues has given voice and power to such groups to ensure that corruption around issues such as land rights, resource extraction, public service access and labour entitlements has been exposed and addressed.”

Similarly, the UNCAC Coalition – a coalition of over 300 civil society organisations around the world advocating for the effective implementation of the convention – states of the role of civil society: “The UNCAC recognises the crucial role of civil society in successful anti-corruption efforts⁶: supporting governments to meet their UNCAC obligations and contributing to ongoing assessments of their performance through the UNCAC review process. Civil society holds an important role as an independent observer of governments’ implementation of the UNCAC and of the transparency of the review process.”

These comments, as well as extensive work and research, by undoubtedly credible and prominent global civil society actors in the anti-corruption sphere capture and emphasise the significance of civil society engagement and involvement in not just national, but also international, anti-corruption efforts and actions.



⁴ See: ‘The UN Convention against Corruption and the role of civil society’: <https://www.u4.no/publications/the-un-convention-against-corruption-and-the-role-of-civil-society>

⁵ See: ‘Civil Society Participation, Public Accountability and the UN Convention Against Corruption’: https://www.transparency.org/whatwedo/publication/civil_society_participation_public_accountability_and_the_uncac

⁶ See: ‘What is the role for civil society?’: <https://uncaccoalition.org/uncac-review/uncac-review-mechanism/>

What these comments convey is that the role of civil society is at core to ensure adequate and appropriate official or government transparency and accountability in its implementation of anti-corruption measures and mechanisms, in order for such measures and mechanisms, both nationally and internationally, to function optimally in the broad public interest.

However, it should be and is recognised that most of civil society engages with states, locally and internationally, from a disadvantaged or weak position, due to various factors, which has a substantial impact on the role such organisations or actors can take on in complementing states' anti-corruption efforts.

Of course, many governments are also actively engaged in diminishing or relegating civil society actors to bit-part-player status, exploiting weaknesses in civil society to sideline their efforts and voices.

The UNCAC framework itself captures some of these frictions and contradictions, such as state-led efforts to push civil society to the margins in the national and international anti-corruption arena.

To illustrate, the UNCAC Coalition has been flagging areas in the UNCAC framework that allow states to limit the participation of civil society in country assessment processes, guided by the UNCAC review mechanism guidelines.

In this regard the UNCAC Coalition states⁷: "Civil society participation is limited by the UNCAC review mechanism guidelines. These guidelines provide the discretion to countries to decide on the extent of participation and transparency in their country reviews. It is up to them to decide whether to allow:

- Civil society involvement in the preparation of the self-assessment checklist;
- Publication of information on the focal point;
- Publication of the self-assessment responses online or access to the responses directly to civil society organisations upon request;
- Inclusion of some form of civil society dialogue with the peer reviewers, including an opportunity to submit written reports;
- An in-country visit with an opportunity for civil society groups and other stakeholders to meet and provide oral and written input to the official reviewers;
- Publication of the full country review report (it is only mandatory to publish the executive summary)".

In light of this, the coalition has been encouraging civil society actors to push-back against such practices that are meant, often deliberately, to sideline CSOs, advising: "It is therefore important that CSOs actively advocate for transparency and participation during the UNCAC review process in their country."

In short, the relational and power dynamics issues playing out between governments and civil society actors on the anti-corruption landscape reflect long-standing tensions between these critical, and supposed to be complementary, actors and is an ongoing concern, to a greater or lesser degree depending the country and region, in an era where the space for civil society appears to be in a state of perpetual shrinkage.⁸

⁷ See: 'Advocate for a transparent and inclusive review mechanism'. <https://uncaccoalition.org/uncac-review/uncac-review-mechanism/>

⁸ See: 'Civic space is shrinking, yet civil society is not the enemy': <https://www.civikus.org/index.php/media-resources/op-eds/3903-civic-space-is-shrinking-yet-civil-society-is-not-the-enemy>

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4. What UNCAC says

Civil society is recognised as an important stakeholder in preventative measures in anti-corruption under Article 13 of UNCAC.

ARTICLE 13 - PARTICIPATION OF SOCIETY

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non- governmental organizations and community- based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision- making processes;

(b) Ensuring that the public has effective access to information;

(c) Undertaking public information activities that contribute to non- tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

While Article 13 is the main enabler of civil society participation in state-led anti-corruption activities under UNCAC, this article is preceded and supported by provisions in Articles 5, as well as strengthened by a provision in Article 63.

Article 5 starts off with the following:

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

Article 63 (4)(c) states:

4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:

c) Cooperating with relevant international and regional organizations and mechanisms and non- governmental organizations;

Articles 13 and 5 creates an obligation on countries to include civil society in domestic anti-corruption efforts, while Article 63 (4)(c) commits countries to work with CSOs at international level.

These provisions are backed up by technical guidance on the implementation of UNCAC.

The technical guidance document issued by the UN Office on Drugs and Crime (UNODC) states⁹:

States Parties should take a broad view of what comprises society and representative associations with whom they should engage. There should be a broad view and understanding of the society, comprising NGOs, trade unions, mass media, faith-based organizations etc. and should include also those with whom the government may not have a close relationship. States Parties should also ensure that the perspectives and views of those without some form of representation, particularly social groups which may be marginalized, are reflected through, for example, household and other surveys.

Further strengthening the role of civil society in the global anti-corruption fight are the “Terms of reference”¹⁰ of the UNCAC review mechanism, specifically paragraphs 28 and 30.

Paragraph 30 states:

28. The State party under review shall endeavour to prepare its responses to the comprehensive self-assessment checklist through broad consultations at the national level with all relevant stakeholders, including the private sector, individuals and groups outside the public sector.

And Paragraph 30 states:

30. States parties are encouraged to facilitate engagement with all relevant national stakeholders in the course of a country visit.

As these provisions of the UNCAC framework make clear, civil society and non-governmental actors should at all times be included in national and international anti-corruption activities and initiatives.

Given all this, the question is to what extent Namibian anti-corruption policies and practices speak to what is prescribed by UNCAC?



5. What Namibian legal frameworks says on civil society involvement in anti-corruption

Namibia's Anti-Corruption Act 8 of 2003¹¹ does not explicitly recognise civil society as a stakeholder in combating corruption or as a critical partner of the Anti-Corruption Commission (ACC).

However, it could be argued that a part of section 3, in Chapter 2, of the law, does enable cooperation between the ACC and civil society on anti-corruption activities.

⁹ See: 'Technical Guide to the United Nations Convention Against Corruption'. https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf

¹⁰ See: 'Terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption'. https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf

¹¹ See: Anti-Corruption Act 8 of 2003. https://laws.parliament.na/cms_documents/anti-corruption-002337e6e7.pdf

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In this regard, section 3(f)(iv) states:

- 3. The functions of the Commission are -
 - (f) to take measures for the prevention of corruption in public bodies and private bodies, including measures for -
 - (iv) enlisting and fostering public confidence and support in combating corruption;

This aside, Namibia had an opportunity to do a better job of including civil society in coming up with a crucial anti-corruption initiative with the crafting of the National Anti-corruption Strategy and Action Plan¹² that was implemented in early 2016 and ran from 2016 to 2019. By the time this paper was finalised, the strategy and action plan had come and gone.

While some civil society participation¹³ in the processes that birthed the strategy and action plan was critical to the emergence of the eventual document, it certainly was not a broad-based and inclusive effort, and as a 2017 IPPR assessment¹⁴ of the implementation of the strategy up until then found: “Any comprehensive strategy requires cooperation from all sorts of institutions and actors, ranging from citizens to private and public institutions. However, there are serious concerns about whether these other actors will carry out the tasks they are supposed to. Many were not involved in the process of drafting the document, and therefore have little ‘buy-in’ from the get-go.”

Notwithstanding this, the National Anti-corruption Strategy and Action Plan did explicitly recognise civil society as a role player on the anti-corruption landscape, with “Strategic Objective 6: Engaging civil society and the media in combating corruption”, the contents of which could be summarised as follows: “The last strategic objective seeks cooperation with civil society and media, who are “uniquely positioned to assist the Government to bring to light cases of corruption.” To support transparency in civil society the ACC will engage CSOs for the purpose of civic education and research on anti-corruption, to create a new system of voluntary CSO registration, and to help develop CSO codes of conduct and integrity systems.”¹⁵

With the National Anti-corruption Strategy and Action Plan 2016-2019 having run its course by the time this paper was finalised, it once again appears as if an opportunity has been missed to engender partnership between government – in the form of the ACC – and civil society in the fight against corruption.

The National Anti-Corruption Steering Committee was launched in September 2016 with the task of overseeing the coordination and implementation of the Anti-corruption Strategy and Action Plan. The ACC was supposed to chair meetings of the Steering Committee and report back to the public. However, little more was heard of the Steering Committee after its launch. Among the stakeholder members of the committee was the civil society umbrella organization – the Nangof Trust. However, since Nangof was largely dormant during 2016 to 2019 period, there was no feedback to the rest of the civil society as to the activities, if any of the committee, of the Steering Committee.

It has to be acknowledged that civil society was not pro-active in following up on whether the Steering Committee was actually meeting and undertaking work.

In general, Namibian CSOs, with a few notable exceptions¹⁶, have not been proactive and driven in formulating their own platforms and programmes in the anti-corruption space.

¹² See: National Anti-corruption Strategy and Action Plan 2016 – 2019. <http://www.namibia-botschaft.de/images/stories/Aktuelles/Government/National-Anti-Corruption-Strategy-and-Action-Plan-2016-2019.pdf>

¹³ The ACC was assisted in the drafting of the strategy and action plan by the Namibia Institute for Democracy (NID), and this author was invited to contribute inputs during the drafting and review processes, but due to work commitments was unable to participate.

¹⁴ See: ‘The Namibian Anti-Corruption Strategy 2016-2019: An overview and analysis’. https://ippr.org.na/wp-content/uploads/2017/05/IPPR_AntiCorruption2017_WEB.pdf

¹⁵ From: ‘The Namibian Anti-Corruption Strategy 2016-2019: An overview and analysis’.

¹⁶ With the exception of the IPPR and NID, no other CSOs have consistently and continuously done work or engaged with state actors in the anti-corruption sphere over the years. Some CSOs have had brief forays into anti-corruption related-work, but have faded away as donor funding has ended.

Could Fishrot be a turning point?

News of Namibia's biggest corruption scandal since independence broke on November 13 2019 when Namibians woke up to the headline story in The Namibian newspaper about the 'Kickback Kings'.

The coordinated investigation, which included Wikileaks, Icelandic media, Al Jazeera and The Namibian, alleged that Icelandic fishing company Samherji had paid at least USD10 million in bribes to secure fishing quotas.

The alleged recipients of some of the bribes included Fisheries Minister Bernhard Esau and Justice Minister Sacky Shanghala and several business figures including the Managing Director of Investec James Hatuikilipi. Within a few days the men had resigned from their positions and two weeks later they were arrested. Public anger rose after the screening of an Al Jazeera documentary on December 1 called "Anatomy of a Bribe" in which some of the suspects were secretly filmed talking about the exchange of quotas for bribes.

The revelations were based on the leak of thousands of company files by former head of Samherji in Namibia, Johannes Stefansson. The so-called Fishrot Files, made available via WikiLeaks, pointed to a complex web of offshore transactions that ended with bribes being paid in Namibia to guarantee Samherji access to Namibia's lucrative fishing grounds. Some of the bribe money appears to have ended up in the coffers of the ruling party, Swapo.

At least some of the Namibian public shook off their docile reputation and took to the streets to protest about the millions of dollars apparently diverted into a few private hands. The year 2019 ended with several demonstrations at the High Court buildings in Windhoek and marches to the offices of the Anti-Corruption Commission (ACC).

The danger is that the outrage over Fishrot will fizzle out and not be channelled into focused action that will put pressure on the authorities to ensure the allegation are fully and properly investigated and that measures are taken to bolster Namibia's defences against corruption. One example of this was government's continued failure to operationalise the Office of Whistleblower Protection since 2017 when the enabling legislation was passed. Although the Fishrot scandal demonstrated the importance of whistleblowers as the key element for the uncovering of grand corruption, government still showed no sign of implementing the Whistleblower Protection Act in 2020 citing a lack of funds.

Civil society organisations could play a crucial role in galvanising this renewed public support for the anti-corruption struggle into specific campaigns which would target issues like whistleblower protection, declaration of assets, lifestyle audits and conflict of interest rules.

Unfortunately, Fishrot is not an isolated scandal. Perceptions of corruption have worsened in Namibia in recent years due to a run of similar if not quite as expensive scandals. These include the collapse of the SME Bank, the Kora awards missing millions, the Jack Huang tax scandal, and the genocide lawyers case, among others. While the media has done a good job in revealing such scandals, the response of civil society has mostly been muted.

A culture of secrecy in the Ministry of Fisheries, particularly over the details of who owns which quotas and rights, partly enabled the Fishrot scandal to take place. At least civil society pressure, mostly through the ACTION Coalition, could result in an Access to Information bill being passed in 2020. The concerted awareness raising and campaigning from ACTION indicates a way forward for often under-resourced CSOs – work together in coalitions on issues of mutual interest and be prepared to apply pressure over long periods rather than just through occasional ad-hoc activity.



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6. The ACC take on civil society's role in corruption prevention

In 2019 Anti-Corruption Commission (ACC) Director-General (DG) Paulus Noa was approached to provide comment for this paper. He made the following comments prior to news of the Fishrot scandal breaking in early November 2019.

The ACC DG acknowledged that CSOs were important stakeholders in national anti-corruption efforts, stating: "What we all need to bear in mind is that members of civil society organisations are part of the general public, thus they are party to the problem of corruption and, therefore they must form part of the process seeking solutions to the debilitating effects of corruption."

Paulus Noa listed how he saw civil society's roles in anti-corruption as the following:

"Civil society organisations have a critical role to play in society. Among such roles are:

- They serve as watchdogs, particularly on government performance.
- They hold government accountable and demand transparency in the administration and management of public resources.
- They must exert constructive pressure on government and public companies to implement good government policies.
- Civil society organisations serve as supreme defender of the constitution on behalf of the public against political abuse.
- They should make the public aware of their rights and train them to demand accountability and transparency from public institutions and government.
- They must inspire confidence in public members and make them aware of their rights to demand essential services from government and government related bodies such as local authorities and regional authorities.
- Civil society organisations are the mouthpiece of the public, hence they should be instrumental in educating the public on their role to participate in anti-corruption programs.
- They ought to serve as a link between public sector and private sector in anti-corruption initiative programs.
- On matters relating to abuse of rights and embezzlement of public funds, civil society organisations may approach the court, on account of public interest, to demand that court makes appropriate order against responsible public officials or government where rights and/or dignity of public members are unlawfully affected by government decisions or misuse of public funds.
- They must aggressively inform the public about the effects of corruption on the economy and how it affects their living conditions.
- Engage government and private sector in serious constructive discussions on relevant policies and programs aimed at curbing corruption and reducing unemployment."

However, Noa criticised Namibian civil society for not being as active as they should be, stating: "Civil society organisations in Namibia have not done as much as one expects them to do in relation to raising awareness against corruption as well as development of anti-corruption programmes. Many of the above points which I outlined have not been done by our civil society organisations. I am saying this well aware of the exceptions and circumstances because, civil society organisations largely depend on donor funding. These funds are limited in Namibia due to the classification of the country as a high middle-income country, secondly donors often have their own priority programs which may not be on anti-corruption. However, some of the activities mentioned above do not necessarily require big funding to be realised."

And he went further, stating: "Civil society organisations in Namibia when it comes to anti-corruption initiatives are largely apathetic. I have not seen civil society organisations in Namibia organising public marches against corruption or taking matters of public interest to civil courts to demand accountability from responsible public authorities. Neither have I seen civil society organisations in Namibia engaging government in serious discussions aimed at initiating constructive anti-corruption programmes. This is with the exception of research institutions which seem to be doing relatively good. Advocacy programmes relating to the activities I alluded to above have not been exhaustively carried out. Yet democracy and good governance will never be adequate without the active participation of civil society organisations."

On the issue of demonstrations, Noa's comments for this paper were made before the revelations of the Fishrot fisheries corruption scandal¹⁷ in early November 2019¹⁸, as the National Assembly and Presidential elections of 27 November 2019 were approaching. During that period, a march by civil society activists and members of the public was held to the ACC head office in Windhoek, during which demonstrators demanded Noa resign¹⁹ over his handling of the pre-Fishrot-related investigations into alleged corruption in the fisheries sector – which had dragged on for years with no obvious progress being made.

7. The state of Namibian civil society

Before delving into what Namibian civil society representatives have to say about the absence of a meaningful presence on the anti-corruption landscape, it is important to get a sense of what the CSO landscape looks like in terms of conditions and challenges, which affect what civil society can actually get involved in.

In recent years civil society's composition and level of activity have tended to be heavily influenced by the availability of funding. In the late 1990s, when Community-based Natural Resource Management was the buzz term, there was an upsurge in the number of organisations working in the field of environment and nature conservation. Since the turn of the century, there has been a noticeable increase in the number of organisations working in the health sector, with most focussing on the HIV/AIDS pandemic. However recent reductions in funding, particularly from the Global Fund, have seen the health sector come under pressure.

Other sectors – like gender, human rights, democracy and governance – have seen a noticeable drop off in donor support. This has resulted in civil society struggling to fulfil one of its most important functions – holding government to account.

Most non-governmental organisations face major problems accessing funding. As a result, the typical CSO operation is a small team of two or three full-time staff at the most with part-time staff or consultants carrying out much of the programme work. Due to limited financing options, many CSOs have funding horizons of around six months to a year after which their viability is often in doubt. Even well-known CSOs have experienced periods of dormancy in the last few years due to gaps in funding. Most CSOs are headquartered in Windhoek with very few having enough resources to open regional offices. Although it is clear that civil society organisations are active in all 14 regions, very little is known about the nature and activities of these non-state actors.

Despite concerns about sustainability, government policy envisages civil society organisations as an important partner in development. The Vision 2030 document, which sets out Namibia's aim of becoming a prosperous, industrialised nation, expresses the hope that by 2030 "the democratic principle of popular participation is well-entrenched in Namibian society. All political parties are active; civil society is vibrant; and mature, investigative and free media entities are in operation."

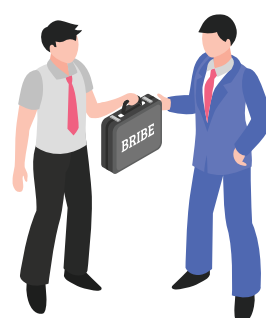
Prior to independence the objectives of most civil society groups were bound together with the aims of the liberation struggle. As a result, many had close links to Swapo and some were regarded as proxies for the liberation movement. In the 1980s churches, trade unions, the student movement, women's organisations and other community groups played a crucial role in galvanising popular support inside Namibia for the cause of independence.

¹⁷ For a summary of the Fishrot scandal see: "Namibia's 'Fishrot' scandal: from start to present..."

<https://www.undercurrentnews.com/2020/01/06/namibias-fishrot-scandal-from-start-to-present/>

¹⁸ To access the Fishrot Files, go to: <https://wikileaks.org/fishrot/>

¹⁹ See: 'Noa uncertain over future at ACC'. <https://www.namibian.com.na/195547/archive-read/Noa-uncertain-over-future-at-ACC>



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Their work was often overtly political and after independence many of these groups found it difficult to adapt to the different conditions and re-orientate their work towards community development and critical engagement with the new government. In addition, many of the leaders of these organisations joined the government, creating a brain drain for civil society at a time when it needed visionary leaders to take up the challenge of building a new society.

New CSOs emerged in the 1990s and 2000s such as the Namibia Institute for Democracy, the IPPR, Women's Action for Development and KAYEC (vocational training) while longstanding organisations like the Legal Assistance Centre managed to consolidate their positions.

For the past 15 years almost all international donors operating in Namibia have concentrated on project funding while only offering very limited core support (for premises, basic bills, fixed salaries etc.).

This has made life for some CSOs quite difficult since they struggle to maintain an office base and a core staff team. Aside from the switch to an emphasis on project funding, Namibia has experienced the withdrawal of many donors, some of them long and established supporters of Namibia. This appears to be due to a combination of factors: Namibia's progress in terms of establishing peace, stability and democracy; Namibia's status as an 'upper-middle income country' (according to the World Bank) since 2009; the global economic downturn since 2008; the election of conservative, less outward-looking governments in some traditional donor countries; and Western nations turning to other priorities including costly interventions in countries like Afghanistan, Iraq and Libya and more recently having to deal with the arrival of tens of thousands of refugees and migrants.

Namibian civil society groups have argued that Namibia still requires international support for a number of reasons, including the vast income disparities between the rich elite and the vast majority of the population who are poor as evidenced in Namibia's Gini-coefficient of 0.56 – one of the highest in the world.

In addition, Namibia's democracy is still in its nascent stage while corruption, human rights abuses (particularly violence against women and children), and other governance-related problems appear to be worsening.

With donor funds almost certain to continue dwindling, the outlook for many CSOs is worsening. Local philanthropy is limited while corporate support for civil society is often more of a marketing and branding exercise that deliberately chooses 'soft', photograph opportunity-type causes rather than potentially controversial governance issues.

According to successive annual iterations of the CSO Sustainability Index for Namibia²⁰, the civil society space is not in good shape and is probably getting gradually worse.

The 2018 CSO Sustainability Index for Namibia²¹ states of this situation:

"The overall sustainability of Namibia's civil society was unchanged in 2018. The legal environment deteriorated slightly because of increased government harassment and the lack of progress on reforming the restrictive research law and introducing access to information legislation. CSOs' ability to secure funds was weaker, causing their organizational capacity and financial viability also to deteriorate. The public image of Namibian CSOs worsened slightly as the government expressed more negative views. However, public protests, concerted lobbying, and social media activism were evidence of moderately improved CSO advocacy during the year. CSOs' service provision and sectoral infrastructure did not change.

²⁰ The CSO Sustainability Index for Namibia is produced by the IPPR.

²¹ See: The 2018 CSO Sustainability Index for Namibia. https://ippr.org.na/wp-content/uploads/2019/12/CSOS18_Namibia_final.pdf

“Data on the size of the civil society sector in Namibia is very limited. Neither the government nor other entities regularly collect comprehensive information about CSOs. The Namibia Institute for Democracy (NID)’s 2018 “Guide to Civil Society” lists more than 130 active organizations countrywide, with the majority working in education, health, and human rights. This figure is about the same as the number of CSOs listed in the previous edition of the Guide to Civil Society issued in 2012. Previously cited reports of 568 active CSOs in Namibia are now considered unsubstantiated, although, given the deteriorating funding environment for CSOs in recent years, it is assumed that the sector contracted in 2018.”

8. Reflections from Namibian civil society

For this paper the author approached a handful of prominent civil society actors in the democracy, human rights and good governance advocacy space for comment on the issue of the absence of a high-profile and formidable civil society presence on the Namibian anti-corruption landscape.

The civil society leaders who responded were:

- Gwen Lister – then Chairperson of the Namibia Media Trust (NMT)
- Naita Hishoono – Director of the Namibian Institute for Democracy (NID)
- Toni Hancox – Director of the Legal Assistance Centre (LAC)
- Pauline Dempers – Community activist

The civil society representatives were asked a range of similar questions on topics that speak to the sector’s engagement in anti-corruption, and their responses were as follows:

1. Perceptions of the levels of corruption in Namibia

Gwen Lister (Namibia Media Trust):

“ I think that corruption is far greater than we may think. If we look at the spectrum of dishonesty, from smaller crimes to greater incidences of graft, and the coverage by media, people have become almost immune to these revelations. Adding to this is the fact that government, from the President down, talk about ‘zero’ tolerance, but they don’t practice what they preach. There are few instances of people being either outed or ostracised because of corruption and little outrage as a result. Promises of lifestyle audits, for example, are kept under wraps, if they are even happening at all. It would take a few major exposes of corruption for people to really wake up to these realities, but generally speaking, cases are swept under the carpet and/or dismissed as part of media’s ‘agenda’ against the Geingob administration. ”



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Naita Hishoono (Namibia Institute for Democracy):

“Corruption has permeated all sectors in Namibia. Corruption is very common. When we talk about the levels of corruption there are certain sectors where the levels of corruption are sky high. We have a lot of issues in Namibia that at the end will give you the perception that corruption in Namibia is very high.”

Pauline Dempers (Community activist):

“Corruption is a great concern in the country, especially in the public sector. The ACC has its own limitations as the absolute power is centered in a different office. Corruption denies citizens their rights as it limits or hampers service delivery. Abuse of political power to cover up corruption is a cause for concern.”

Toni Hancox (Legal Assistance Centre):

“Endemic – Accepted in certain circles as the way to do things.”

2. Own organisation and broader civil society's engagement with the issue of corruption

Gwen Lister (Namibia Media Trust):

“Namibian civil society is not overly engaged on the topic of corruption. Still fairly small and fragmented, the various civil society organisations tend to have their own specific focus, whether it be access to information, media freedom and/or issues like gender-based violence. Of all of them it is probably IPPR which does the most work in this regard. This is not to say that civil society is not concerned about rising levels of graft, simply that they have commitments in other important areas.”

Toni Hancox (Legal Assistance Centre):

“In general I think that civil society will respond within their networks regarding publicised corruption but there is no combined stand against corruption. I believe civil society is well aware of the concerns of corruption as is evident from the comments on social media and within the Whatsapp groups of civil society. However, once again very little seems to come from this outrage. In our current situation, issues are raised at the time when the story breaks but there is no follow up as to what has happened to current cases and there is no call for action to be taken by the authorities. And very soon we are embroiled in the next scandal.”

Naita Hishoono (Namibia Institute for Democracy):

“Even us, as NID, we used to inform the public about corruption. We worked with the media, the ACC, Office of the Ombudsman. The way we approached it is more on informing people on corruption and we basically did public education. We assisted the ACC to develop the [anti-corruption] strategy. We travelled throughout the country and we focused more on small businesses and government entities, to inform them about the different legal instruments that are there and that must be implemented by them. But, as NID, we didn't reach out to other CSOs, we didn't look for coalition.”

Pauline Dempers (Community activist):

“ Civil Society can embark on awareness education in the communities on what corruption is. CSOs must increase advocacy and lobbying strategies to gain more access to relevant information. The sector must have systems in place to guard against corruption. Peer-to-peer review of governance and operations in the sector through its individual organisations must be encouraged (ethics in theory and practice). ”

3. Conditions that would allow for civil society to take up a greater role in anti-corruption

Naita Hishoono (Namibia Institute for Democracy):

“ The Access to Information in Namibia (ACTION) Coalition. That's an example of how one can do it. That is where different CSOs in Namibia come together to tackle the issue of access to information. Something similar should be done with CSOs that are interested to come together around anti-corruption. I really do not know why NID never went about that, why we never thought about it. I think we really focused on getting information out there, and there I will say we did a brilliant job. But we missed out bringing other organisations on board. ”

Toni Hancox (Legal Assistance Centre):

“ I believe that should sufficient funding be made available, the LAC and other NGOs could at least engage with specific concerns of corruption and do investigations and release the summary of such investigations. In the case of litigation, it would prove a bit more difficult since our current law requires that a person have a “direct and substantial interest in the topic”, although there are recent judgments suggesting that this may not be so stringent in future. There are also current applications before court that request the extension of standing so in the future it may be possible for a community directly affected to take a stand, or even an organisation representing ratepayers. ”

Gwen Lister (Namibia Media Trust):

“ If civil society was more united, they could make corruption a part of their key focus in whatever other areas they concentrate on. Corruption is, after all, something that impacts on all aspects of life, whether it be rising crime and violence as a result of unemployment, and/or holding government officials to account on expenditures which do not target priority areas and much of which is lost due to misappropriation and/or theft. ”



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4. Conditions that limit active civil society engagement in anti-corruption



Naita Hishoono (Namibia Institute for Democracy):

“ I could say lack of vision. I think it's an issue of interest to tackle the issue. And lack of an umbrella body that could bring CSOs together. ”

Gwen Lister (Namibia Media Trust):

“ There is no specific civil society organisation, as far as I know, which focuses on the scourge of corruption, which remains covert rather than overt. There is a need also for citizens to make the connection between graft and (lack of) development and to rise up in protest whenever this occurs or is exposed by the media. In many cases there is a form of admiration for those who have made material gains in life, even if such has been earned through dubious means. The worship of materialism generally adds fuel to the fire. Civil society could help conscientise the public on why they need to care about the abuse of our resources, and the Action coalition probably has the best chance of doing this. ”

Toni Hancox (Legal Assistance Centre):

“ The problem with the ability of NGOs to engage relates very much to the fact that there is only sufficient funding to deal with the current focus of the various NGOs. It is a matter of survival. ”

Pauline Dempers (Community activist):

“ The challenges that the sector faces are limited resources as well as not having specific organisations that deal with corruption, therefore relying mostly on the media for information. Access to information generally [is an issue]. The absence of such a law also limits the ability of the sector. ”

9. Conclusion

While Namibian civil society has lost time and probably space in trying to assert itself in the national anti-corruption context, all is not lost, and it is clear that there is still room for a strong civil society presence on the anti-corruption landscape.

However, for civil society to play an active and credible role in anti-corruption there needs to be a coherent sectoral platform and approach. And this is where Namibian civil society has been lacking – there seems to be no broad-based inclination to organise towards creating such a platform, presence and approach, while basically two organisations – NID and the IPPR – have been doing important but limited work in the anti-corruption space.

An underlying issue of why Namibian civil society has not been more visible in anti-corruption to date also seems to be that many do not know much or anything about Namibia's numerous and significant obligations under regional and international instruments, treaties and conventions, especially under UNCAC.

Aside from that, civil society actors face their own internal capacity challenges and funding constraints, as well as mandate limitations, all of which could play a restricting role in CSOs' ability to organise and participate in sectoral or national anti-corruption efforts.

Even so, civil society actors spoken to for this paper recognise and accept that they have a role to play and that the absence of strong civil society involvement in national anti-corruption efforts could potentially have a long-term negative effect on the sector and broader society.

Namibians CSOs can look to international and regional examples to learn about how anti-corruption coalitions can be built and effective organisations set up. One such example would be the Corruption Watch organisation in South Africa which raises awareness, carries out research, and also investigates cases. Such a comprehensive, rigorous approach could be adopted by CSOs involved in a new anti-corruption platform in Namibia.

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10. References

In order of appearance:

- Weylandt, M. 2017. The Namibian Anti-Corruption Strategy 2016-2019: An overview and analysis. Institute for Public Policy Research. https://ippr.org.na/wp-content/uploads/2017/05/IPPR_AntiCorruption2017_WEB.pdf
- UNODC. 2003. United Nations Convention Against Corruption. United Nations. https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
- Wheatland, B. 2016. The UN Convention against Corruption and the role of civil society. U4 Anti-corruption Resource Centre. <https://www.u4.no/publications/the-un-convention-against-corruption-and-the-role-of-civil-society>
- Dell, G. 2015. Civil Society Participation, Public Accountability and the UN Convention Against Corruption. Transparency International. https://www.transparency.org/whatwedo/publication/civil_society_participation_public_accountability_and_the_uncac
- UNCAC Coalition. What is the role for civil society?. United Nations. <https://uncaccoalition.org/uncac-review/uncac-review-mechanism/>
- John, L. 2019. Civic space is shrinking, yet civil society is not the enemy. Civicus. <https://www.civicus.org/index.php/media-resources/op-eds/3903-civic-space-is-shrinking-yet-civil-society-is-not-the-enemy>
- UNODC. 2009. Technical Guide to the United Nations Convention Against Corruption. United Nations. https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf
- UNODC. 2009. Terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. United Nations. https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf
- Government of the Republic of Namibia. 2003. Anti-Corruption Act 8 of 2003. https://laws.parliament.na/cms_documents/anti-corruption-002337e6e7.pdf
- Anti-Corruption Commission. 2016. National Anti-corruption Strategy and Action Plan 2016 – 2019. Government of the Republic of Namibia. <http://www.namibia-botschaft.de/images/stories/Aktuelles/Government/National-Anti-Corruption-Strategy-and-Action-Plan-2016-2019.pdf>
- Gibson, D. 2019. Namibia's 'Fishrot' scandal: from start to present.... Undercurrent News. <https://www.undercurrentnews.com/2020/01/06/namibias-fishrot-scandal-from-start-to-present>
- Wikileaks. 2019. Fishrot Files. <https://wikileaks.org/fishrot/>
- Immanuel, S. 2019. Noa uncertain over future at ACC. The Namibian. <https://www.namibian.com.na/195547/archive-read/Noa-uncertain-over-future-at-ACC>
- Hopwood, G. 2019. The 2018 CSO Sustainability Index. Institute for Public Policy Research. https://ippr.org.na/wp-content/uploads/2019/12/CSOS18_Namibia_final.pdf



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