

THE PLACE OF RECORDS IN COMBATING CORRUPTION IN SOUTHERN AFRICA: A STUDY OF BOTSWANA AND ZIMBABWE'S ANTI-CORRUPTION COMMISSIONS

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Abstract

No nation is immune from corruption and it is the poor in the developing countries that suffer the most due to the abuse and misuse of resources. Southern Africa has joined other progressive states in confronting the scourge of corruption. Organizations, regardless of their sizes, document their activities during business transactions. This study therefore sought to investigate the extent to which such records are useful in fighting corruption trends in the two neighboring states of Botswana and Zimbabwe. General trends in corruption indicates that out of 176 corrupt countries in the world, Botswana is ranked 35 while Zimbabwe is ranked 154 (Transparency International's Perception Index Data 2016). The study surveyed the Directorate on Corruption and Economic Crime (Botswana) and the Zimbabwe Anti-Corruption Commission (ZACC) (Zimbabwe). Using desktop research, extant literature and content analysis of the two anti-corruption commissions' reports, results indicate that while records are a key resource in combating corruption in both nations, there are however other crucial factors that claim a spot in fighting corruption. The factors include political will to implement the constitutional rules; appropriate application of rule of law, procedures and regulations; and active participation of the citizens. Consequently, the researchers have recommended that there should be proper recordkeeping in both public and private institutions; the police force should enforce the countries' rules; anti-corruption commissions should serve everyone and not their masters; remunerate workers well and in time, among other recommendations.

Keywords: Corruption; DCEC; Records; Recordkeeping; Rule of law; ZACC

Introduction and Background to the Study

Corruption hurts all countries, in every region of the world. Corruption may be described as 'Soliciting or promising, giving or receiving, offering or accepting, as a public officer, a bribe (i.e. valuable consideration as described in Section 23 of the CEC Act of 1994) for carrying out or not carrying out official duties and responsibilities because of being influenced by the bribe (Corruption and Economic Crime Act, Cap 08:05). The UNDP (2004: 5) defines corruption as

an unethical act undertaken to derive or extract personal rewards at the expense of the interests of the country through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement. It is not surprising that the number of anti-corruption initiatives around the world has increased dramatically over the past decades. Frequently, anti-corruption initiatives are not considered to deliver on the high expectations bestowed upon them. According to the Botswana Gazette (2017:2) Botswana has slipped to the 35th place on Transparency International's 2016 Corruption Perceptions Index. Corruption is presently one of the major challenges facing humanity (Seleke 2016).

The Directorate on Corruption and Economic Crime (DCEC) was set up in 1995 to respond to a number of lapses in ethical governance in Botswana. Corruption in Botswana has reached cancerous proportions to the extent that it has distorted the process of national development in the country through a plethora of irregularities. The fight against corruption in public health, education, pensions, land, and judiciary all depend upon well-kept and well managed records and information (World Bank 2011). Botswana is one of Africa's leading performers in anti-corruption. Since 1998 when Botswana was first assessed through Transparency International's Corruption Perception Index (CPI), the country consistently came out as Africa's leading anti-corruption nation in terms of the CPI. Globally, Botswana remains consistently in the 25% least corrupt countries of the world. Though Botswana has earned a reputation for controlling corruption, the negative and frequent newspaper reports and allegations of corruption are becoming worrisome.

The Directorate on Corruption and Economic Crime (DCEC) established Anti-Corruption Units during the year 2010, in various government ministries and departments to curb and eradicate corruption (DCEC Newsletter, 2016). Mwanda (2013) noted that the Directorate uses a three-pronged attack strategy borrowed from the Hong Kong ICAC. However, Botswana has been on a free fall Transparency International ranking since the year 2012. State of the Nation Address by His Excellency the President of the Republic of Botswana (2012) indicates that the conviction rate for matters brought before courts stands at 71%. In 2012, the total number of cases under active investigation amounted to 1476. The number of cases classified for investigation increased by 99 from 671 in 2009 to 770 in 2010 which represents a 14% increase (Rudolph and Lysson 2011).

Corruption is rampant in Zimbabwe. In 2014 Zimbabwe was ranked 156th of 176 most corrupt countries. A 2014 local survey indicated that 77.4 % of the respondents professed that they had been asked for a bribe (Transparency International Zimbabwe 2014). Corruption in Zimbabwe can be traced back to

the nascent years when, due to political and social developments at the time, the ruling party started to consolidate power. It is shared knowledge that you do not conduct business in Zimbabwe unless you are 'known' by those in the ruling party. Corruption has become the way through which one conducts successful business or rises through the political ranks. The Zimbabwe Anti-Corruption Commission (ZACC) was established on the 8th of September 2005 in terms of Chapter 13, Part 1 of the Constitution of Zimbabwe. It is an independent commission created with a mandate to curb and combat corruption and crime in all sectors of the economy. Section 255 of the Constitution stipulates that ZACC has the following functions;

- to investigate and expose cases of corruption in the public and private sectors;
- to combat corruption, theft, misappropriation, abuse of power and other improper conduct in the public and private sectors;
- to promote honesty, financial discipline and transparency in the public and private sectors;
- to receive and consider complaints from the public and to take such action in regard to the complaints as the Commission considers appropriate;
- to direct the Commissioner-General of Police to investigate cases of suspected corruption and to report to the Commission on the results of any such investigation;
- to refer matters to the National Prosecuting Authority for prosecution;
- to require assistance from members of the Police Service and other investigative agencies of the State; and
- to make recommendations to the Government and other persons on measures to enhance integrity and accountability and prevent improper conduct in the public and private sectors.

The World Bank Group (2016) considers corruption a major challenge to its institutional goals of ending extreme poverty by 2030. Records and information provide verifiable evidence of fraud that can lead investigators to the root cause of fraud. There is no way we can wipe out corruption without good records management as a point of reference for evidence of transactions (Okello-Obura, 2007). The World Bank (2000:5) understands a well-managed records and information system to provide a cost-effective deterrent to fraud and corruption. To minimize corruption, government and organizations should redirect their focus towards promoting good records and information management practices as one of the corruption prevention strategies, instead of directing a lot of resources towards investigating and detecting corruption (Kanzi, 2010). This

would make a significant difference, as there would be fewer corruption and fraud cases to investigate when proper records and information management systems are entrenched within an organization.

In Botswana Public Sector, there are some attempts being made in some of the departments such as Directorate on Corruption Economic Crime in which there are surveillance cameras installed in the entire organisation. Employees can only access their offices through use of biometric verification such as use of their thumbs to open their offices. The main challenge is that they are still using the manual system to manage their records and tracking of files within the offices is problematic as some of the investigators have a tendency of taking case records with themselves and they are always lost, thus led to the public winning cases due to lack of records and evidence. The Botswana government through BNARS made initiatives to strengthen record administration in Botswana. The National Archives and Records Services is charged with the responsibility of providing records and information management service to government ministries and departments and local authorities. It provides the same to parastatals on advisory basis. BNARS' mandate is to ensure that public records are created, used, maintained and disposed of to promote efficient and economic handling of information. The Botswana National Archives and Records Services as vested with advising the entire Public Sector in managing records.

In the case of Zimbabwe attempts have been made to professionalise the records system in order to strengthen the record administration. This has encouraged the introduction of records and archives education in tertiary institutions such as universities and technical colleges (Tsvuura and Mutsagondo, 2015). Records personnel with appropriate qualifications have been promoted. Those with better qualifications have received some notches. As mandated by the National Archives of Zimbabwe Act (1986) the NAZ oversees the professional administration of public sector records by providing storage facilities for semi-current records (those under 25 years), offering file reference service, conducting records management surveys, training registry staff through workshops and seminars, facilitating and supervising the destruction of classified records, transferring records which have been identified for their permanent historical, evidential, legal, fiscal and research values to the Public Archives.

Statement of the Problem

The corruption scourge in the SADC is serious, rife and rampant. Data from the Transparency International's Corruption Perception Index (2016) ranks the two studied Southern African countries out of 176 countries in the following order Botswana (35 down from 28 in 2015), Zimbabwe (154 down from 150 in 2015). In the case of Botswana's anti-corruption strategy, proper recordkeeping, albeit

important, is not recognized as essential to the country's anti-corruption strategy (Keakopa and Keorapetse 2012). Many institutions in Botswana tried to fight corruption but have been compromised as the Directorate on Corruption and Economic Crime (DCEC) is too weak and lacks independence. Indeed, the fight against corruption in public sector will depend upon well-kept and well managed records and information (World Bank 2011). Zimbabwe has a long history of corruption in the post-colonial era with prominent examples including the Willowgate, the VVIP Housing Scheme, the War Victims Compensation Fund scandals and, recently, Salarygate scam, among others. Consequently, this study sought to investigate how the Directorate on Corruption and Economic Crime (DCEC) in Botswana and the Zimbabwe Anti-Corruption Commission (ZACC) utilize records and information to fight various forms of corruption.

Objectives

Specifically, the study sought to answer the following questions:

1. What is the extent of how Anti-Corruption Commissions use records to fight corruption?
2. Besides relying on records where else would Anti-Corruption Commissions get information related to corrupt activities?
3. Do Anti-Corruption Commissions collaborate with other private and public institutions (police, intelligence, banks, Immigration) to fight corruption?
4. What anti-corruption rules and regulations are in place
5. How are the citizens made aware of the legal implications of corruptions?

Methodology

The study surveyed the Directorate on Corruption and Economic Crime (Botswana) and the Zimbabwe Anti-Corruption Commission (ZACC) (Zimbabwe) using desktop research, extant literature and content analysis of the two anti-corruption commissions' reports and interviews. Data collected through questionnaires was analysed to obtain some descriptive statistics while qualitative was analysed using objectives to derive particular themes pertinent to the study. In Botswana five (5) ministries and departments participated in the study. In Zimbabwe data was gathered from the ZACC reports.

Findings and Recommendations

The research interpretation and discussions are based on the research objectives. For ethical reasons the names of departments and ministries that participated in the study will not be revealed.

The extent of how Anti-Corruption Commissions used records to fight corruption

The respondents were asked how they use records to fight corruption. In Botswana the findings of the study showed that the departments surveyed used records on daily basis to curb corruption on their institutions. These departments recognize sound records management as a priority area to keep constant checks on malpractices of corruption practices as there were effective Corruption Prevention Committees. The other 3 ministries have attempted to establish Corruption Prevention Committees but they were not effective.

The Patriot Newspaper (November 2016) revealed that Botswana has a poor project management; Morupule A refurbishment which is expected to be complete December 2017 won't be able to meet the deadline rather extended to 2019 and thus additional costs. Due to poor records management, the scope of the project changes every day as explained by the site managers. However, this is a great sign of tempering with the requirements as stated by the coordinator, thus changing the original records intentionally by compromising its effectiveness and these records could not be relied upon in the court of law. The LAPCAS system has led to delays and cancellations of some components of the project and the government will lose millions of pulas due to incorrect information on the registered title bonds and deeds with the Deeds Registry.

The Zimbabwe Anti-Corruption Commission, as an anti-graft body, acquired confidential documents used in the fraud investigation against Higher and Tertiary Education, Science and Technology Development Minister Professor Jonathan Moyo and his deputy Dr Godfrey Gandawa where the two are alleged to have abused \$400 000 Zimbabwe Manpower Development Fund (Zimdef). The ZACC followed due procedure to get the documents during its investigations.

Literature also reveals that the ZACC was instrumental in unearthing the FIFA match-fixing scandals of 2010/2011,⁴ in which the local football authority, the Zimbabwe Football Association (ZIFA) was implicated. Electronic mails (e-mails) and other documents identified during the investigations led to the arrest and prosecution of the former CEO of ZIFA of Henrieta Rushwaya. The accused was eventually acquitted but several players, coaches and journalists were implicated in the criminal trial, and a FIFA-mandated tribunal found several of the accused persons guilty of impropriety.

In the case of Botswana, anecdotal evidence from personal observations by researchers showed that records management has been incorporated on the ministries' strategic plans and records management units where officers who

had diploma and degree qualifications, had clear line of authorities and they maintained records in accordance with Botswana National Archives Act of 2007 and Records Management Procedures of 2009. One interviewee revealed that *“records management officers were also the focal officers of the corruption prevention committees in those departments and officers were always sensitized on the importance of records.”*

At one Botswana ministry one interviewee revealed that *“Procurement Process Map were developed as there were lots of irregularities in the award of procurement tenders, overpayment of and no delivery of some goods by the suppliers and as such evaluation committees have been established which were responsible for assessing all the quotations for all the tenders and procurement officers are not the members of that committee. Every time when a tender is closed an assessment is conducted and the committee creates records which normally shows how assessment was conducted and the company which has won the tender after that the officers assessment are expected to sign in those reports as a true copy and file records with the records management unit.”* Personal observations by the researchers showed that records management processes at 2 departments have been re-engineered to enable records officers to know what they are supposed to do on their daily basis.

Out of five ministries and departments in Botswana only 2 revealed that the corruption prevention committee has adopted holistic approach to addressing corruption. This involved preventing it, by building transparent, accountable systems of governance and improving more public integrity by strengthening the personal ethics of their employees. Out of the 4 respondents interviewed, 3 of them revealed staff are equipped with sound ethical culture supported by appropriate policies, procedures and strategies that prevent corruption as well as carrying out periodic assessments of fraud and corruption risks and staff are sensitized on fraud and corruption. This was also confirmed through personal observations. Despite attempts being made at Department of Energy the Mmegi Newspaper 2017:3 states that P326 million biggest financial scandal in Botswana. This money laundering case involved Kgori capital, Department of Energy and Directorate of Intelligent Security in which they mismanaged the National Petroleum Fund to conduct businesses which the fund was not made to do.

In Botswana, the study revealed that at Department of Public Service Management it emerged that by the year 2014 the department had a problem of ghost workers and through establishment of the anti-corruption units a new system called Human Resource Management System (Oracle) which managed the ghost workers was introduced. The system has in built control measures to

guard against anomalies and can be easily monitored as it is computerised (Seitshiro, 2016). The department issued a circular to all Ministries and Departments to use unique identifier thus identity number or passport number for all personal files. All the records were opened with identity numbers across the Public Sector and that enhanced the service delivery. This has assisted the Botswana government to identify the culprits who have been stealing the government money. One interviewee revealed that *“there are so many unemployed graduates so they have created a database to manage their recruitment of Botswana Public Sector and this has reduced favoritism, conniving and bribery of officers as the graduates are expected to log on the system and complete the forms and submit online.”* Masokola, (2015) reported that the Department of Tertiary Education Financing Director quit his job by December 2014, as department continued to experience perennial problems including most notably ghost students. This is one of the good records and information management system which has assisted all the Ministries and Departments to use only one unique identifier thus identity card number across for personal files of employees.

Findings at 2 ministries in Botswana indicated that the use of records to curb corruption practices were rare as there were no anti-corruption units and committees were yet established. Nevertheless, one interviewee revealed that at one hospital, *“it is common for records to go missing as their records are in disarray thus they are kept on the floors and retrieval is a challenge whenever needed.”* The findings show that corruption continues to rise at this hospital, as there are lots of missing records and lack of records management policy so there is nothing that binds them on the usage of records.

In Zimbabwe the ZACC has also been invited by several government ministries and departments to undertake forensic audits of their accounts. This shows the power of good records and information management practices thus if these practices were not there the government public relations officers would not have unearthed the rot in the government ministries and agencies.

Other sources of information on corrupt practices/activities.

The second objective was to find out, besides relying on records where else would Anti-Corruption Commissions get information related to corrupt activities. The study revealed that the Anti-Corruption Commissions receive reports relating to corrupt activities in different ways. Staff lodge reports to the Directorate on Corruption and Economic Crime (Botswana) and the Zimbabwe Anti-Corruption Commission (ZACC) acting on their official or personal capacity or by stakeholders who have witnessed or directly or indirectly experienced a particular suspicious activity taking place.

Reports studied and interviewees indicated that information may be received through telephone, cellphones of departments have established toll free lines and emails dedicated to receiving anti-corruption units reports as that ensure confidentiality, anonymity and ease of access. Personal observation showed that those toll-free numbers did not have officers managing them and people in regions and departments, situated away from the head office have difficulty in accessing anti-corruption services.

Anti-Corruption Commissions' collaboration with other institutions in fighting corruption.

The third objective was to examine Anti-Corruption Commissions' collaboration with other private and public institutions (police, intelligence, banks, Immigration) to fight corruption. The study showed that there are effective efforts made regarding cooperation amongst the anti-corruption units, police, intelligence, banks, Immigration to fight corruption. Researchers' observation showed there were some reports compiled on monthly basis regarding the investigation and pursuit of corruption and money-laundering cases. Some reports showed the Anti-Corruption Commissions in both countries, work closely with the national Police. One interviewee at ZACC said, "*Section 254 of the constitution constitutes the Zimbabwe Anti-Corruption Commission and the commission relies on the police to effect arrests.*"

Alleged corruption cases received by the police are referred to Directorate of Corruption and Economic Crime for investigation (DCEC) who rely on the police for support in specific situations. In Botswana, personal observations showed monthly reports compiled by the Police and Directorate of Corruption and Economic Crime on corrupt cases.

Identify the anti-corruption rules and regulations

With regard to anti-corruption rules and regulations content analysis and study of literature identified anti- corruption policies at department of Green Technology and department of Public Service Management Service. For instance, at department of Green Technology and Energy Security it emerged that there have declaration of asset guidelines which employees have to comply all the time they receive gifts from customers. Researchers were shown registers that were used for registering gifts all the time upon receipt by officers.

Literature surveyed revealed that the two countries have a battery of laws that speak to corruption. For instance, Botswana has the following laws to fight corruption: The Corruption and Economic Crime Act (1994) established the DCEC and criminalizes specific corrupt acts and practices, including active and passive domestic bribery; embezzlement; trading in influence; abuse of functions; illicit enrichment; private sector bribery; and obstruction of justice. The Penal Code also criminalizes certain corruption crimes, including embezzlement, misappropriation or the diversion of property by a public

official; the falsification of books and records; abuse of functions; private sector bribery; private sector embezzlement; and obstruction of justice. The Proceeds of Serious Crime Act (1990) criminalizes the laundering of proceeds of serious offences. The Public Procurement and Asset Disposal Act (2001)²¹ aims to ensure an open, fair, and transparent tendering according to commercial practices. The Act established the Public Procurement and Asset Disposal Board,²² an SOE charged with regulating public procurement matters in Botswana.

As for Zimbabwe, the Anti-Corruption Commission Act (2004)⁵⁹ sets forth the scope of responsibilities for the Zimbabwe Anti-Corruption Commission. The Criminal Law (Codification and Reform) Act (2004) establishes bribery and corruption offences, including domestic active and passive bribery and abuse of functions, as well as embezzlement in the public and private sectors. The Audit Office Act, along with the Constitution and the Public Finance Management Act, provide the framework for Zimbabwe's supreme audit institution, the Comptroller and Auditor General. The Procurement Act of 2001⁶³ established the State Procurement Board, which is responsible for public procurement contracting on behalf of procuring entities, to supervise procurement proceedings, and to investigate possible violations of procurement procedures. The Serious Offences (Confiscation of Profits) Act (1990) provides for the confiscation of money and property used in or in connection with, or as proceeds from, crime. The Public Finance Management Act (Chapter 22, Art. 19) provides a legal framework for the financial management, corporate governance and auditing requirements for SOEs. The Reserve Bank Act (Chapter 22, Art. 15) regulates for the regulation, supervision and conduct of SOEs in the financial sector. The Bank Use Promotion and Suppression of Money Laundering Act (Chapter 24, Art. 24) deters money laundering by SOEs, specifically those in the financial sector.

How citizens are made aware of anti-corruption

It emerged that both the DCEC and ZACC do carry out awareness campaigns to sensitize the public about the evils of corruption and the pieces of legislations that speak to corruption. The anti-corruption commissions also make use of local print media, radio and television broadcasting to ensure that the public are aware of the vice. Among the main achievements of the DCEC are its successful coordination of a campaign amongst the general public against corruption and a high conviction rate of investigated cases. For illustration, the DCEC report (2012: 19) confirms that as at December 2012 a total of 135 cases were brought before the courts compared to 110 for 2011. In Botswana Chikumbudzi (2014) urged all councils, district commissioners and tribal administrations to double their efforts and urgently resuscitate their Corruption Prevention Committees (CPC) because it was through such committees that the ministry planned to fast

track sensitization of staff and the general public on corruption prevention strategies.

The extent of their effectiveness in combatting corruption

Although not well documented, corruption has raised its ugly head in Botswana as the National Petroleum Fund is being mismanaged by senior officials and the poor will still remain poor and the rich will be richer (Mmegi Newspaper, 2017:3). In its 2016 Government Defence Anti-Corruption Index, the anti-corruption watchdog scored Botswana way below the 50 percent pass mark on defence and security corruption. With a score of between 16.7 percent and 33.2 percent Botswana was accorded an “E” grade which places the country’s defence and security outfits in the banding bracket of “very high corruption risk”. Records show that between 2012 and 2016 Botswana has dropped from position one to position five in Africa and from position 20 to position 60 in the world on the index of accountability and constrains on government powers.

From the literature surveyed it emerged that the ZACC’s stability is often affected by political interference, lacks an independent budget posing serious challenges and has often incapacitated the execution of its mandate. ZACC has investigated and found a lot of corruption but politicians frustrate its efforts to eradicate the problem by promoting a culture of impunity. Cases have died a natural death before any prosecution. Content analysis indicated that this has been interpreted in some quarters as further indication of the lack of political will by the state to support the commission’s core mandate of fighting against corruption. There is supposed to be a flow from ZACC to Zimbabwe Republic Police (ZRP) and National Prosecuting Authority but exposed cases are not followed.

In spite of the available comprehensive constitutional and legal framework, the ZACC has struggled to effectively combat or contain corruption due to a number of factors that include lack of resources (both financial and human) and its overlapping mandate and those of its collaborating partners like the police, the judiciary and the prosecuting authority that further compromise its performance, a lack of political will by those in power, who are themselves the major culprits in corruption.

Recommendations

The paper is based on the study that aimed at investigating the place of records in combating corruption in Botswana and Zimbabwe through their anti-corruption commissions. It sought to address the following research questions: What is the extent of Anti-Corruption Commissions’ using of records to fight corruption? Besides relying on records where else would Anti-Corruption Commissions get information related to corrupt activities? Do Anti-Corruption Commissions collaborate with other private and public institutions (police,

intelligence, banks, Immigration) to fight corruption? What anti-corruption rules and regulations are in place and how are the citizens made aware of them?

The study concluded that corruption undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the public sector and particularly hurts the poor. All departments should build capacity in the development and planning of strategic anti-corruption policy and programmes. Effective measures to prevent, detect, investigate, punish, and control corruption, including the use of evidence-gathering and investigative methods. The study recommends that ministries and departments should create awareness through workshops and training for anti-corruption groups on how records can be manipulated and misused. The study recommends that government registries should employ records personnel with appropriate academic qualifications, competencies and requisite skills to professionally execute records management duties. Access to records in the registry units must be restricted to professionals. Records must not spend unnecessary time with action officers. There is need to further improve the security system of records holding rooms and offices. All these assists in the anti-corruption fight. The Governments of Botswana and Zimbabwe need to implement adequate legislation such as the Declaration of Assets Law, Freedom of Information and Whistle Blower Protection Act in order to support the DCEC and ZACC in carrying out outlined mandates of fighting corruption. In addition, there is a need to strengthen the available protection of reporting persons, including through a comprehensive Whistleblower Act. Moreover, the Botswana and Zimbabwe Governments need to enforce the rule of law in line with the United Nations Convention against Corruption (UNCAC). In this case, application of laws must not be done on partisan lines in order to curb corruption. The two Governments should emphasize the importance of records in fighting corruption. Besides there is need to ensure that there is political will and commitment in the battle against corruption to encourage quality of governance in the region.

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