

THE AFRICAN HUMAN SECURITY INITIATIVE
THE ANTI-CORRUPTION REPORT

INTRODUCTION

Corruption in Africa is of major concern in Africa as African countries have limited resources and hence this retards the social and economic development of the continent as a whole.

Corruption has been defined as the abuse of the official position for private gain. (See Corruption and Development in Africa 1997-GCA Policy Document).

The costs of corruption to Africa have led to numerous losses with far-reaching consequences, as most countries remain underdeveloped with the masses remaining economically marginalized. In Nigeria for example, a steel mill budgeted at US\$ 1,4 billion ended up costing \$US4 billion due to inefficiencies in the system. Furthermore in Uganda 42,000 "ghost workers" contributed to the civil service wage bill. (See Policy Forum Document Corruption and Development in Africa/http: www.gc.cma.org)

During the Global Coalition for Africa in 1997, there was unanimous agreement that corruption, though a problem throughout the world, presented a significant threat to the development of African countries and that urgent action was required to address it. (Maputo, Mozambique).

Corruption has thus been identified as a serious obstacle to social and economic development as it limits economic growth through the reduction of public resources, which results in the inefficient use of revenue.

Corruption is tied with the issue of governance and hence to a certain extent issues of governance have to be addressed if corruption is to be dealt with effectively. Because corruption has a link with governance, it is imperative that African states embark on political and economic reforms, which promote free and open competition, transparency and accountability.

The structures set in place should allow for full participation of stakeholders who hold those in power accountable thus allowing full ownership to all in the anti-corruption strategy and this why it is important to give credence to a strong civil society movement, which holds Governments accountable.

The oversight role of civil society ensures that Government is closely watched on how it expends national resources in order to guard the economic and social interests for all instead of a selected few who are usually in the top echelons of society. In many African countries the incidences of corruption have led to poor health delivery services and denial of basic economic and social rights for the common man as Government resources have been diverted from benefiting the intended beneficiaries.

Most African countries have now developed systems to address corruption; this has been done through the development of institutions in the civil service, parliament and the judiciary to create the necessary checks and balances. In most cases these institutional reforms have not been sufficient, as they have tended to involve government structures only.

In most instances, the incidence for investigation and prosecution for grand corruption cases has not increased, as there is no serious effort to curb high-level corruption. The cases that have been highlighted have only involved petty corruption. There is enough evidence that in most countries there has not been any significant improvement in the levels of corruption despite numerous commitments made by Heads of State and Government to curb corruption through poverty reduction strategies.

A typical example is Uganda, which initiated an anti-corruption campaign in 1986. In spite of the considerable efforts made by Government to combat corruption, corruption is still viewed as a significant problem in Uganda.

The perspective on human security is enshrined in the CSSDCA (Conference for Security, Stability, Development and Cooperation in Africa) and NEPAD also embraces this concept of human security. In addressing governance issues and in particular by building effective anti-corruption strategies, this will lead to human security through improving security for the African people, particularly the most vulnerable.

Security can only be achieved where public participation and accountability to the public is held as paramount through building transparent and accountable systems. The NEPAD objectives can only be fulfilled where the partnership constitutes of leaders who live up to their commitments and are not just paying lip service. The link between security and development is vital and hence the issue of corruption if addressed will provide better human security and a more optimistic future for the African people.

The Constitutive Act of the AU has as one of its principles, the adherence to principles of good governance.

The AU Convention on Corruption and Related Offences has the following benchmarks:

1. Harmonization of anti-corruption norms and standards.
2. Adoption of appropriate legislative measures and other institutional arrangements to fight corruption.

The benchmark areas identified in the NEPAD agreement in relation to addressing corruption are the following:

1. The development of clear standards of accountability, transparency and participatory governance at national and sub-national levels.
2. Introducing appropriate institutional frameworks to achieve macroeconomic stability.
3. Instituting transparent legal and regulatory frameworks for the private and public sector.
4. Capacity building in anti-corruption.

This research will focus on the indicative criteria in order to analyze how far the eight countries of Ethiopia, Uganda, South Africa, Algeria, Senegal, Ghana, Kenya and Nigeria have lived up to their commitments. The indicative criteria will be based on the following analytical questions:

1. How far has the particular country adopted effective legislative and institutional measures to combat corruption?
2. Does the State allow for participation of the media and civil society and ensure public accountability?
3. Has the State created and strengthened oversight institutions.
4. Are matters of transparency and accountability in the public and private sector dealt with e.g. public consultation, open tendering system?
5. Has the State initiated administrative and civil service reforms?
6. Is there an existence and enforcement of appropriate standards and codes of good practice?

The study on these countries will as far as possible; depending on the information gathered, capture on all the indicative criteria. In some instances, according to the information that was available, it was not possible for some of the indicative criteria to be covered in some specific countries. Some of the countries did not have information on oversight institutions for example; this was the case for Algeria and Senegal.

CHAPTER 1

ADOPTION OF ANTI-CORRUPTION MEASURES

Motivation

The Primary purpose of the African Peer Review Mechanism is defined as to “ foster the adoption of policies, standards and practices that lead to political stability, high economic growth...” This is clearly elaborated in the AU Convention on corruption and article 2 expounds on these principles through its objectives.

Article 2(1) states as one of the objectives of the AU Convention on Corruption as to:

“ Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.”

Indicators

1. Enactment and enforcement of criminal laws, which deal effectively with corruption.
2. Adoption of legislative mechanisms and procedures for the public to submit complaints of corruption, including the protection of witnesses and whistleblowers.

Problems

Enactment of legislative provisions does not always address the issue of corruption. Some countries have good pieces of legislation, which paint an impressive picture on paper but remain ineffective to fighting corruption. It is therefore important that ways be identified to allow for enabling legislation.

Ethiopia

Ethiopia became the first African country to pledge “ an anti-corruption undertaking” to the World Bank in 1998 in order to get more loans from the institution.

The Government has been reported as being fully engaged in NEPAD objectives since the Prime Minister is at the forefront in the initiative. There is therefore reform taking place in terms of liberalization, democratization and principles of good governance. Significant progress has been made in anti-corruption with senior government officials and executives from the private sector being brought to court over cases on corruption.

The Government has also set up mechanisms in place to familiarize the public on NEPAD. Plans are underway to make the public sector more transparent through civil service reforms. Codes of conduct are being established in every government department. Senior Government officials are required to declare their assets to the Federal Ethics and Anti-Corruption Commission (FEAC). Civil servants are also undergoing performance appraisals.

This was as a result of the Transitional Government of Ethiopia (TGE) officially proclaiming free market oriented economic policies. Donor countries and agencies financed the Economic Rehabilitation and Recovery Program (ERRP) and this revitalized the economy, which had been destroyed during the military regime of Colonel Mengistu Hailemariam. The TGE had development stages that covered liberalization, restructuring and stabilization.

On May 24, 2001, The House of Representatives (The Parliament) endorsed two draft proclamations, as presented by the Minister of Justice. The first proclamation was no. 235/2001, which proclaimed the establishment of the " Federal Ethics and Anti-Corruption Commission". The second proclamation no.236/2001 provided for the Rules of Evidence and Procedures." This led to the subsequent arrest of 25 people by the special forces of the police, and their arraignment into special prison at the Central Investigation Bureau (CIB) of the Federal Police Commission.

The following are observations on the anti-corruption campaign from Justice in Ethiopia[®]see JIE "' Anti-corruption " Campaign expanded report - What has anti-corruption campaign (Ethiopia) "Achieved"? - June 2002 - [http:// www.justiceinethiopia.net/expendedreport.htm](http://www.justiceinethiopia.net/expendedreport.htm)).

" The campaign has also exposed the extent to which the executives can stretch their powers to serve their own narrow concern and purposes. Proclamations were pushed down the throat of the legislative, court rulings were flagrantly disobeyed. Laws and procedures were either bent or crushed to suit the requirement of the day. And all these abuses of power and authority were made in the name of fighting corruption and abuse of authority, in the name of ensuring the rule of law and the prevalence of democracy. By the same token our hopes and aspirations of creating a balanced and accountable government have been seriously undermined.

Judges have been fired, suspended or reprimanded for being disobedient or uncooperative to the demands and orders of politicians. The Constitution has effectively been suspended in order to create room for this campaign. Laws that were declared fascist and hence incongruent with the current setup were suddenly resuscitated and put in full force. New proclamations were hastily enacted to cope up with the particular needs of a particular group. In the meantime, the whole system of law and justice has been reduced to a mere extension or rubber stamp of the executive.

One important achievement we made during the last decade was what we had attained in the areas of economic recovery and private sector confidence. We had almost started to win the confidence and trust of many foreign investors. Several Ethiopians in the Diaspora had begun to look homewards. Hellas! All this has been devastated in one year's time. The economy is in shock; we seem to be retracting to where we were 11 years ago. "(See Justice in Ethiopia report).

There is concern on how the anti-corruption campaign was initiated in Ethiopia. The process has been regarded as a sudden process, which sought to clean out any opposition to Government.

The Proclamations were enacted two months after the split in the EPRDF leadership leading to the arrest of 25 people who included politicians, executives and managers. The anti-corruption campaign was aimed at those politicians and business people who have come in confrontation with the Prime Minister during the split in the EPRDF leadership. The anti-corruption campaign was used as a guise to shield the prime Minister's real motives to punish those who had rallied against him.

The result of the anti-corruption campaign was that it failed to achieve the goals of a genuine campaign but instead worsened the political and economic situation in Ethiopia.

Ghana

The Government of Ghana developed an economic development programme in order to address poverty leading to its reduction as well as to improve the welfare of Ghanaians. The poverty reduction strategy was developed in 1995 and focuses on economic growth with improved access to delivery services for the rural and urban poor.

The Ghana – Vision 2020 states that:

" The long-term vision for Ghana is that by the year 2020, Ghana will have achieved a balanced economy and a middle -income country status and standard of living. This will be realized by creating an open and liberal market economy founded on competition, initiative and creativity, that employs science and technology in deriving maximum productivity from the use of all our human and natural resources and in optimizing the rate of economic and social development, with due regard to the protection of the environment and to equity in the distribution of the benefits of development."

In order to fulfill its objectives, the Government has established certain key institutions to facilitate private investment, regulate private sector operations and protect private sector investment.

The Securities Regulatory Commission has been established to ensure discipline and transparency in the financial sector. The Bank of Ghana

and the National insurance Commission have been strengthened to enhance their oversight of the banking and insurance sectors. The Public Utilities Regulatory Commission has been established to regulate utility pricing, to ensure reliable service and to provide a forum for both private operators and consumers in order to resolve differences amicably.

The Ghana Investment promotion Centre has been transformed from an investment regulation authority to an investment facilitation agency to encourage the inflow of foreign private capital.

The Government organized a National Economic Forum in 1997 whose objectives were aimed at assisting the private sector to provide a platform to create Private- Public sector dialogue.

There has also been a move to reform the financial sector in Ghana and a programme of reform has been initiated which will include the deregulation of interest rates and credit ratings ceilings, and a liberalized trade and payments regime. Measures have been put in place to strengthen the management and operational capabilities of banks, and the development of the capita market.

A call has been made for strengthening the capacity of the State in order for it to promote better governance.

The Government of Ghana is embarking on strengthening the capacity of the State to promote better governance and in particular there has been a move to address corruption. The Government has embarked on an anti-corruption strategy, which involves coalition building amongst different sectors. A Serious Fraud Office (SFO), the Commission on Human rights and Administrative Justice (CHRAJ) and a number of civil society organizations.

There are legislative provisions, which deal with decentralization, and they are derived from the Constitution of Ghana and the Local Government Act (Act no.462 of 1993). Other legislative provisions that facilitate the implementation for decentralization include: The Civil Service Law 1993, and the National Development Planning System law (Act 480 of 1994).

Ghana has the Serious Fraud Office Act, 1993 whose purpose is the establishment of a Serious Fraud Office to monitor, investigate, and on the authority of the Attorney-General, prosecute any offence involving serious financial or economic loss to the State and to make provision for connected and incidental purposes.

The functions of the Office are:

- a) To investigate any suspected offence provided for by law, which appears to the Director on reasonable grounds to involve serious financial or economic loss to the State or to any state organization or other institution in which the State has financial interest.*

- b) To monitor such economic activities as the Director considers necessary with a view to detecting crimes likely to cause financial or economic loss to the State; and*
- c) To cooperate with such international agencies as the Director considers appropriate.*

The Director of the Serious Fraud Office is empowered to freeze assets or bank accounts if he/she is of the opinion that to facilitate investigations it is necessary to have the assets frozen. However the Director is required under the Act to write within 7 days to the High Court or Regional Tribunal for a confirmation of the freezing of assets and bank account.

The Public Office Holders (Declaration of Assets and Disqualifications) Act, 1998, Act 550 provides for the declaration of assets and liabilities by public office holders in conformity with Chapter 24 of the Constitution. It also provides for the disqualification from holding specified public offices as a result of adverse findings made or a criminal conviction against an individual.

The Act provides for the declaration of assets and liabilities by public office holders and these public holders are required to submit to the Auditor General a written declaration of all properties and assets owned by him and all liabilities owed by him. The public office holders include the President, the Vice-President and other senior government officials as prescribed under Schedule 1 of the Act.

The Act stipulates that the public officer shall make the declaration before taking office, at the end of every four years, and at the end of his office.

The Act does not stipulate whether these declarations will be made publicly.

In summary the strategic measures taken by the Government for 2000-2002 were the following:

- ✓ Reform of Government agencies to increase efficiency, quality of service and reduce drain on public resources.
- ✓ Completion of restructuring of the Ministry of Finance and the Public Services Commission.
- ✓ Decentralization of selected services and functions of Local Government.
- ✓ Submission of Local Service Government Bill to Parliament.
- ✓ Completion of the design phase of fiscal decentralization.
- ✓ Improvement of cash-flow management and expenditure control.
- ✓ Improvement of timelines of Accountant-General's monthly reports on Government operations.
- ✓ Formulation and implementation of the public procurement code.
- ✓ Completion of survey on corruption perceptions and issues report.

The Government has initiated a policy of " Zero Tolerance " for corruption. This policy is aimed at eliminating and preventing all forms of corruption in the public and private sectors of the country. The New Patriotic Party (NPP) initiated the policy of ' Zero Tolerance for Corruption soon after coming to office in the year 2001 and programmes are now being initiated to facilitate the success of the initiative.

The Government is also making preparations to improve the legal framework, which will lead to the promulgation of anti-corruption legislation such as the Procurement Bill, the Financial Administration Bill, The Protection of Whistleblowers and the Freedom of Information Bill.

Kenya

The Anti-corruption campaign was initiated in the year 2001-2002, when the donor community urged the Kenyan government to implement measures to fight corruption. The International Monetary Fund (IMF) in particular stressed the importance of new anti-corruption initiatives as well as principles of good governance to be implemented by the Government.

The IMF reiterated that there was a need for a " vigorous anti-corruption strategy as part of a wider programme of governance reforms to generate the conditions for stronger per-capita income growth in Kenya". (See Kenya report on www.africaonline.com).

The IMF had suspended aid to Kenya in late 2000 because the Government had failed to fulfill its promises on tackling corruption and privatizing the economy. Kenya was experiencing serious recession and its economy has shrunk significantly.

During the Presidency of Arap Moi, there was established the Kenya Anti-Corruption Authority which was dissolved as it was found to be unconstitutional. Another drawback was that in August 2001, Kenya's legislature turned down the anti-corruption legislation, which had been presented to Parliament. The MPs opposed the Bill in the grounds that it would not reduce corruption in Kenya. The reason for the lack of support for the Bill was that the legislation was too weak to make a difference and furthermore that even if the disbanded anti-corruption authority was rescuscited, it would still be shrouded with constitutional and legal problems. Another ground for the refusal to pass the Bill into an Act was that the Bill would create conflict between the head of the Anti-Corruption Authority and the Attorney General because the latter would retain the power to prosecute cases of corruption.

The new Government under President Kibaki when it came into power, pledged to introduce a new Constitution and to revive the Anti-Corruption Commission. President Kibaki promised to fight corruption and indicated that corruption would be fought from the top and promised to end political interference. Furthermore he pledged that the Anti-

Corruption Commission would be given the mandate to prosecute people without going through the Attorney- General's Office.

The Government under Kibaki on coming into power has indicated that it will address corruption by:

- ✓ Implementing a Government initiated anti-corruption strategy.
- ✓ Government's commitment to dealing with corruption in a just, transparent and effective manner.
- ✓ Government's commitment to institutional reform including the setting up of an independent anti-corruption commission.
- ✓ Implementing legal reforms, including a Public Officer Ethics Act under which every public officer will annually declare his or her wealth.
- ✓ Collaboration with the private sector and professions.
- ✓ Collaboration with development partners, civil society and the media.
- ✓ Changing society's attitude to corruption. (See the speech by the Minister of Justice and Constitutional affairs¹¹IACC-May2003)

The Anti-corruption and Economic Crimes Act, 2003 provides for the prevention, investigation and punishment of corruption, economic crime and related offences.

In the Act, corruption is defined as bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, breach of trust, or any law involving dishonesty. Sections 39 to 44, 46 and 47 further expound on other acts of corruption. (Section 39 relates to bribing agents, section 40 relates to secret inducements for advice, section 41 relates to the deceiving principal, section 42 relates to conflicts of interests, section 43 relates to improper benefits to trustees from appointments, section 44 relates to bid rigging, section 46 relates to abuse of office, and section 47 relates to the dealing with suspect property.).

The Anti-corruption and Economic Crimes Act further provides for the establishment of the Kenya Anti-corruption Commission, which has the powers of investigation for corruption and economic crime. The Act also has a provision for the protection of whistleblowers.

The Act also provides for the following:

- ✓ The identification of investigators who may conduct the investigation on behalf of the Commission.
- ✓ Offences relating to corruption.
- ✓ The compensation and recovery of improper benefits.
- ✓ The rules of evidence.

The Public Officer Ethics Act, 2003 provides for requirements on declaration of income, assets and liabilities. All public officials and employees are required to declare their income, assets and liabilities and those of their spouses and dependant children. (See sections²⁶⁻²⁷)

The Public Officers Ethics Act, 2003 also provides that the Public Service Commission shall establish a specific Code of Conduct and Ethics for the public officers and the Commission shall be responsible for administering the code of conduct.

Since coming into power, the National Rainbow Coalition (NARC) government has made the following commitments and progress:

- ✓ The Government has constituted probe teams to investigate financial management in eight local authorities. This will lead to the extraordinary inspection of accounts and records of the authorities. (See EastAfricanStandardJune2003).
- ✓ The new Government is also investigating the extent to which the extent of corruption perpetrated under President Arap Moi's Government. Kenyan Minister of Planning has reported that Kenya has lost more than \$9bn in a decade due to corruption and mismanagement of State funds.
- ✓ Cases involving corrupt judicial officers have been exposed.
- ✓ President Kibaki appointed John Githongo, the former executive director of Transparency international (Kenya) as the new Permanent Secretary of Governance and Ethics. John Githongo has also reaffirmed the Government's commitment to fighting corruption and transparency in the management of financial information and statistics to ensure good governance. (See East Africa Standard May132003).
- ✓ The Ministry of Justice has received over 2000 corruption cases, the Assistant Minister had indicated that the anti-corruption unit needs to be expanded and more personnel added to make it cope with the number of cases being referred to it for investigations. (See East African Standard (Nairobi) May 1,2003).
- ✓ The Government has impounded passports belonging to directors of the collapsed Euro bank. The Attorney General told Parliament that he had also directed the Anti-corruption Police Unit to identify beneficiaries of 1,68billion shillings deposited with the bank. (See Financial Times, March19, 2003).
- ✓ The powers of the traffic commandant have been reduced in a major construction of the department. The Police Commissioner reported that the commandant would now deal only with policy matters, public education and the administration of driving schools. He also added that the move had been taken to eradicate corruption and make the department people-friendly. (See All Africa February 28, 2003).

Nigeria

Corruption in Nigeria was not a noticeable issue in the early 1950's, however, it is reported that colonialism brought different developments to Nigeria, and these include corruption entrenched institutions. (See <http://www.sakiinternational.org/essay.html>).

Since that time, there has been reported cases of corruption in Nigeria, which include theft, and looting of the national treasury including the misuse of \$12bn by President Ibrahim Babangida in 1991.

Although Nigeria has vast wealth and resources, the majority of the people live below the poverty line.

There have been various moves by different regimes to combat corruption in Nigeria. This has led to the implementation of programmes, which include the Ethical Revolution, National Reorientation, War Against Indiscipline and Mass Mobilization for Self-reliance and Economic Recovery (MAMSER). These programmes are said to have failed due to faulty implementation and the prevailing socio-economic and political conditions within the country. The conduct and behaviour of the political elite and the advocates of these programmes did not reflect the same ideological perspective with the programmes. (See Otiwe Igbuzor "Corruption in Nigeria presented to Zero Corruption Coalition in Nigeria, 2002).

It has been held that in Nigeria, corrupt government officials are not punished instead they are pampered, celebrated and rewarded with chieftaincy titles and other rewards. (See www.sakiinternational.org/essay.html).

Corruption in Nigeria, has led to the reduction of foreign investment, loss of government revenue resulting in depreciation of standards to schools, hospitals, roads and other social services. There has been disregard of the law, particularly by the higher echelons and has thus created an atmosphere of bad governance and underdevelopment.

The Federal Republic of Nigeria has in the past developed several programmes and put in place several laws to combat corruption, the situation has not improved. Some of the anti-corruption laws, which were introduced, were the following:

- ✓ The Public Officers (Investigation of Assets) Decree No.5 of 1966) to address and eradicate corruption.
- ✓ The Corrupt Practices Decree of 1975 under which past public office holders were tried for abuse of office by a 3 man panel that investigated and examined their assets.
- ✓ The 1979 Constitution provided for a Code of Conduct for public officers, a Code of Conduct Bureau for the enforcement of such prescribed behaviour, and a Code of Conduct Tribunal.
- ✓ The National Drug Law Enforcement Agency Act, Cap 253, Laws of the Federation of Nigeria (LFN), 1990.

- ✓ The Indiscipline, Corrupt Practices and Economic Crime (Prohibition) Decree of 1994.
- ✓ Money-Laundering Act no. 16 of 1995.
- ✓ Advance Fee Fraud Act No.3 of 1995.
- ✓ Failed Bank Act no. 16 Of 1996.
- ✓ Bank and other Financial Institutions Act, No.17 of 1991 as amended.
- ✓ Foreign Exchange (Miscellaneous) Provisions 0 Act 17 of 1995.
- ✓ The Corrupt Practices and Other Related Offences Act, 2000.

Several initiatives were also carried out which include the following:

- The Ethical Revolution initiated by the Shagari administration. A Cabinet Minister was put in charge of the National Guidance to address the state of corruption in Nigeria.
- A national Committee on corruption and other Economic Crimes in Nigeria drafted the Corrupt Practices and Economic Crimes Decree in 1990. The draft was never enacted.

The Nigerian Constitution of 1999 provides for transparency, accountability and good governance. In section 15(5) it is provided that:

“ The State shall abolish all corrupt practices and abuse of power”.

The Fifth Schedule of the Constitution also provides for a Code of Conduct Tribunal, which has the power to try public officers who contravene the Code of Conduct for public officers. The tribunal can impose punishment in such a manner that compels a guilty officer to vacate his/her office or seat in any legislative house. The tribunal has the power to seize and forfeit to the State any property acquired due to abuse of office or corruption.

The Corrupt Practices and other Related Offences Act was promulgated in the year 2000. This led to the establishment and inauguration of the Independent Corrupt Practices and other Related Offences Commission giving the Commission the mandate to fight corruption. The Act seeks to prohibit and prescribe punishment for corrupt practices and other related offences. It establishes the Independent Corrupt Practices and other Related Offences Commission vesting it with the responsibility for investigation and prosecution of offenders.

The remarkable feature about the Act was that during the Bill stage, NGOs and CSOs were able to contribute to the drafting of the Bill as public hearings were conducted in Lagos in order to examine the draft Bill. Stakeholders and the legislature identified various defects and gaps in the Bill and were able to make recommendations to strengthen the Bill. The recommendations were presented to the National Assembly in 1999.

The recommendations made were the following:

- To strengthen due process requirements in the conduct of investigations by the proposed independent anti-corruption commission as opposed to broad, sweeping powers conferred on investigators in the initial draft of the Bill presented by President Obasanjo. In particular the interception of post, telecommunications and e-mails as well as search and seizures of evidence with the initial draft authorized under a presidential order and which can now be effected by a court order.
- To stipulate that the Chair and members of the Commission will be nominated by the President but must be confirmed by the Senate, the initial draft stated that they would be appointed by the President.
- To designate the Chief Justice of Nigeria to appoint an independent Counsel to investigate allegations of corruption leveled against the President, Vice-President, State Governors and Deputy State Governors.
- To strip the Attorney General of sweeping powers of search, seizure and confiscation conferred on the initial draft and transfer these powers to high court judges.
- To widen the anti-corruption commission's mandate to include private sector corruption.

The new Government under President Obasanjo has also initiated a new policy known as the "Due Process" to enforce compliance in budgeting, procurement and expenditure. The Federal Executive Council on the 31st October 2001 conducted the formalization of the "Due Process" after the approval of the President's memorandum. This formalization gave the responsible unit the institutional mandate to track on government budgeting, contracting and capita expenditure management.

Although there are major drawbacks in the Government -led anti-corruption campaign, various attempts have been made by the Government to address corruption; the measures include the following:

- a) President Obasanjo has ordered an inquiry into the affairs of the 774 Local Governments in the country to investigate corruption. (See All Africa -August 25, 2003).
- b) Law enforcement agents have been brought to the courts on charges of corruption. (See This Day Newspaper, Nigeria, August 15 2003).
- c) Several senior civil servants were sacked from the Internal Revenue Department of the Ogun State Ministry of Finance. They were alleged to have defrauded the Government of several millions of Naira. (See This Day Nigeria, August 15, 2003).
- d) The Police Service Commission has also been mandated to investigate allegations of fraudulent practices by the police hierarchy. (See Daily Champion, Lagos, April 2001.)
- e) An Anti-corruption squad has been established in the police force in an effort to reform the Nigeria Police. (See Nigerian Guardian April 23, 2002).

- f) In 2001 President Obasanjo revealed that a new code on corporate governance would be introduced to facilitate the fight against corruption " Government will press forward in the arduous task of reducing the cost of doing business in Nigeria by accelerating the pace of infrastructural development, privatization of parastatals that have remained drain pipes on the public treasury as well as completely removed all hurdles that have impeded private participants in productive activities, stated the Minister of Federal Capital Territory. (See Nigeria Guardian, October 10, 2001).
- g) Four Nigerian Ministers resigned from office in 2001 after 8 ministers were accused of sabotaging key billion dollar reforms intended to rebuild and privatize the telecommunications, water and electricity sectors. (See AP June 13, 2001).

Uganda

The Idi Amin regime in Uganda from 1971 to 1979 resulted in a complete breakdown of the rule of law and mechanisms designed to monitor political and financial accountability. During this era there existed widespread petty and grand corruption, which was apparent in the legislative, executive and judicial structures.

It has been reported that despite efforts undertaken by the new government to put in place anti-corruption measures to curb corruption, Uganda has not established concrete and effective results, which indicate that the level of corruption has been reduced in the country.

Since 1986, there has been a thrust towards combating corruption. A National Integrity System was created and this saw the involvement of not only the executive but also other stakeholders who include civil society and the media.

President Museveni led the process leading to structural changes, which included reforms to the Constitution, Parliament and local district council elections. During its course from 1986, the Government has initiated the following anti-corruption measures:

1. The Inspectorate of Government was established in 1986 to advocate the rule of law and reduction of corruption. The IGG is responsible for investigating and prosecuting corruption cases, organizing and conducting awareness raising activities, and evaluating and monitoring the effectiveness of anti-corruption legislation and the related legal framework.
2. The Leadership Code of Conduct was adopted in 1992 and this mandates the declaration of assets on the part of high-level government officials and sanctions influence peddling. It also sanctions abuse of power.
3. The Constitution was amended in 1995 in order to increase the checks and balances. The amendment gives the IGG (Inspector General of Government) mandate to fight corruption and he

reports to Parliament rather than the President. Discussions in Parliament are also open to the public.

4. The budget of the IGG and the Auditor-General have been substantially increased.
5. The Public Service has been downsized, and this eliminated the existence of "ghost-workers" on Government payroll. Civil servant salaries have been increased threefold to reduce the incentive for petty corruption.
6. A newly established Uganda Revenue Authority has succeeded in tripling the revenue by establishing more effective structures to counter tax evasion.
7. The Government has introduced a new system of liberalizing the economy and has also deregulated many structures of the economy.
8. The media has greater media independence allowing it to put more pressure on Government to investigate acts of corruption.
9. The Department of Ethics and Integrity was established in 1998 under the Minister of Integrity in the Office of the President. It took over the functions of the anti-corruption unit earlier created in the Vice-President's Office.
10. Control systems to make Government departments more efficient are being implemented.
11. New public procurement regulations are being drafted to replace the archaic Central Tender Board Regulations.
12. New legislation has also been enacted to counter corruption; this includes the Penal Code, the Prevention of Corruption Act, Trial on indictment Decree and the Magistrates' Court Act.
13. A Judicial Service Commission has been established to enquire into allegations of corruption in the Police Force. This has led to the removal of the Commissioner of Police and other police officers found guilty of illicit enrichment.
14. A Special Unit is being established within the Office of the Directorate on Public Prosecution with the mandate to prosecute corruption, economic and organized crime.

The Government has also implemented other measures, which include structural reforms, civil service reforms, Parliamentary and electoral reform, economic liberalization and administrative decentralization.

The Ugandan Constitution provides for democratic principles which empower and encourage the active participation of all citizens at all levels, it also stipulates that the State shall be guided by the principle of decentralization and devolution of governmental functions and powers.

There is an undertaking on the Constitution that the State shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them. The issue of corruption is specifically mentioned in the Constitution in Part XXVI of the Constitution, which states that:

- i. " All public offices shall be held in trust for the people.*
- ii. All persons placed in positions of leadership and responsibility shall, in their work, be answerable to the people.*
- iii. All lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other offices".*

The Constitution also provides that the Parliament shall by law establish a Leadership Code of Conduct for those in leadership positions.

A Government strategy to fight corruption has been ongoing since 1994. A National Integrity System was designed to foster a change in institutional behaviour through the facilitation of public participation in the action plans for the anti-corruption strategy. This strategy was implemented to increase the accountability of the State, to allow for effective institutional reform and the enhancement of the integrity of society generally.

The law in Uganda is not sufficiently effective to address corruption. The word " corrupt" is not explicitly defined in the Prevention of Corruption Act, 1970, which provides that:

" Any person who shall, by himself or by or in conjunction with any other person,

- 1. Corruptly solicits or receives, or agrees to receive for himself or for any other person, or*
- 2. Corruptly gives, promises or offers to any person whether for the benefit of that person or of another person,*

Any gratification as an inducement to, or reward for, or otherwise on account of any member, officer or servant of a public body doing or forbearing to anything in respect of any matter or transaction whatsoever commits an offence."

This law confines the acts of corruption to circumstances involving public officers. This is restrictive because it does not address private sector corruption. There are however plans underway to review the legislation.

The pieces of legislation include the following:

- ✓ The Prevention of Corruption Act (Act no. 8 of 1970).
- ✓ The Penal Code (1964).
- ✓ The Penal Code (Amendment) Statute (Statute 5 of 1987).
- ✓ The Leadership Code (Statute No. 8 of 1992).
- ✓ The Local Government Act (Act 1 of 1997.)

The following provisions have strengthened the legislative framework:

- ❖ The Prevention of Corruption (Amendment) Act 1998, which restricts the disposal of monies held in bank accounts of people accused of corruption as well as the compensation of money from the accounts of those convicted of corruption.
- ❖ The Penal Code (Amendment) Act 1999, which defines the offence of embezzlement and empowers the Director of Prosecution to freeze accounts of persons found guilty of embezzlement.
- ❖ Magistrates' Courts (Amendment) Act 1998; which reserves the right of bail to the High Court in offences related to abuse of office, embezzlement, financial loss, corruption and bribery.
- ❖ The Trial of indictments (Amendment) Act 1998, which sets out conditions for the grant of bail by the High Court to persons charged with offences under the magistrate's Court Amendment Act.

The results achieved through the national strategy have been reported as the following: (see the Norad report).

- Increase in budget allocations of the IGG and the Auditor-General.
- The establishment of a monthly anti-corruption interagency forum, chaired by the MIE. This forum discusses key corruption cases and agrees on the allocation of responsibility for high profile investigations in order to reduce duplications.
- The establishment of a high profile and public Judicial Service Commission enquiry into the allegation of corruption in the police.
- The prosecution of a former Minister of Justice.
- Big cases have been debated and have been submitted to Parliament by the IGG and the AG's office as reports, these include, (i) Uganda's Railways Corporation (ii) Valley Dams, (iii) Uganda Electricity Board.
- More access and freedom of information allowing the media to report and publicize freely on corruption matters.
- Proposals have been made to broaden the scope of the Code to cover spouses and other family members required to declare their assets.

South Africa

The South African Government has taken a number of initiatives to address corruption. The initiatives have been undertaken through:

- ✓ Legislation.
- ✓ National anti-corruption summits.
- ✓ The establishment of anti-corruption bodies.
- ✓ The reform of government institutions.

- ✓ Endorsement of the Global Coalition for Africa list of principles to combat corruption in Africa.

Anti-corruption initiatives by Government are vested in 10 bodies, which include the Public Service Commission, Office of the Public protector, and Office of the Auditor –General, the Health Special investigative Unit, The South African Anti-corruption Unit and the recently created Scorpions Unit.

The Government has the commitment to good and clean governance. One of its priorities has been the drive against corruption since 1994. Some of the measures that have been taken to address corruption are the following:

- ✓ The adoption of a comprehensive framework for initiatives to combat and prevent corruption in the public service (known as the Public Service Anti-corruption Strategy).
- ✓ The promulgation of anti-corruption legislation.
- ✓ Development of investigating and prosecuting anti-corruption capacities.
- ✓ Efforts undertaken to develop partnerships with business and civil society.

The chronological events for the National Public Service Anti-corruption Strategy are as follows: (see Country Corruption Assessment Report).

- 1997: Adoption of the Code of Conduct for the Public Service, the establishment of an Interministerial Committee on corruption tasked with the development of a national anti-corruption campaign.
- 1998: Moral Summit held by the religious and political leaders and the adoption of the Code of Conduct for leadership; the Public Sector Anti-corruption Conference, which adopted the key points for fighting corruption in a partnership manner.
- 1999: The National Anti-corruption Summit which adopted parameters for the development of South Africa's National Anti-corruption programme, the first meeting of the Cross Sectoral Task Team on corruption; hosting of the 9th International Anti-corruption Conference.
- 2000: Government and UNODC/ ROSA holding jointly the International Anti-corruption Expert Round Table.
- 2001: Government and UNODC/ ROSA signed an agreement on the United Nations Support to the National Programme against Corruption, Public Service Anti-corruption workshop with main stakeholders on the development of the anti-corruption strategy, launch of the Tripartite (Government, Business and Civil Society) National Anti-corruption Forum.
- 2002: Cabinet adopted the Public Service Anti-corruption Strategy.

The areas of focus for the Public Service Anti-corruption Strategy are the following:

1. Review and consolidation of the legislative framework.
2. Increased institutional capacity to combating corruption.
3. Improved access to report corruption and the protection of whistleblowers.
4. Mechanisms to prevent corrupt acts between public service employees and businesses.
5. Improved management policies and practices ie improved management policies and practices ie improvement on procurement, employment regulations, discipline, information and financial management, disclosure of assets.
6. Management of professional ethics.

The Prevention of Corruption Act of 1992 is being amended, as it has been difficult for convictions on the grounds of corruption to be secured under the Act. There is a proposed amendment Bill to the Act, which it is reported will provide a more workable definition of corruption. The provisions of the amendment will follow the trend in modern anti-corruption legislation by defining and prohibiting specific corrupt actions and corrupt practices.

The new Prevention of Corruption Bill seeks to create new offences relating to corruption and will also reinstate the common law offence of bribery. The offences listed in Bill are the following:

- The offence of corruptly accepting gratification.
- The offence of corruptly giving gratification.
- The offence of corruptly accepting gratification by, or giving gratification to, an agent.
- The offence of fraudulent acquisition of a private interest.
- Offences in respect of tenders.
- Bribery of public officers.
- Corruption of witnesses.
- Bribery of foreign public officials.
- Bribery in relation to auctions.
- Bribery for giving assistance in regard to contracts.
- The offence of corruptly using the office or position for gratification.
- Corruption in relation to sporting events.
- Offences relating to the corrupt accepting and giving of gratification.
- Additional offences.
- Intentional obstruction of investigation of an offence.
- Possession or control of property corruptly acquired by a public officer.

Algeria

The main economic sector in Algeria is petroleum; the income is however unevenly distributed as the top echelon of the population has access to the funds.

After independence, the Algerian economy was put under state control. The economy therefore favoured prosperity amongst the politicians. The state of corruption in Algeria has been occasioned through the insufficient redistribution of resources. It has been reported that corruption is prevalent in Algeria due to State monopoly of the resources. (See Article on "Public Economy, corruption and the gearing of the violence in Algeria -by Fatiha Talahite) Revue Tiers-Monde-www.algeria-watch.de).

When Algeria gained its independence; the State took control of the colonial property, which included houses, companies, land et cetera. The State did not endeavour to put in place transparent and accountable procedures. The State thus has full control over the public goods and private ownership is not recognized. This has led to difficulties encountered in identifying corruption in Algeria. Furthermore effective rules for the administration of companies are non-existent.

It is reported that the rate of grand corruption decreased from the year 2001-2002 in Algeria, this was mainly due to the general economic recession in the region. (See Transparency International: Global Report on Corruption 2003, North Africa). One of the reasons for the laxity of the economy was due to the decrease of fuel prices in the 2002. This has led to decreased expenditure, construction activities have gone down as well as arm expenses. Although the level of grand corruption had decreased, there is now a rise in small-scale corruption. This stems from the decrease in the public revenue.

Although there have been initiatives to fight corruption in Algeria, these initiatives have been minimal and lack the proper dedication to counter corruption.

There have been efforts, which have been made to counter corruption in Algeria; these efforts include association agreements between the EU and Algeria from April 2002. The agreements contain clauses on the battle against corruption and money laundering. It has been reported that it is however not clear how these agreements will be implemented. The World Bank has also reinforced privatization programmes in Algeria; these programmes have not yet yielded any positive improvements leading to the transparency of the economy.

Algeria was involved in a survey instrument on the implementation of the United Nations Declaration Against Corruption and Bribery in International Commercial Transactions. (See UN Report 15 February 2002).

According to the survey the Government of Algeria revealed the following information:

- ✓ Legislation on illicit enrichment exists and this legislation makes illicit enrichment by public officials including elected representatives, an offence. Algeria indicated that, according to order No. 156-66 of June 1996, acts of illicit enrichment by public officials, including those by elected representatives, could be determined under various forms of criminal offences, in particular treachery, transfer of public funds, abuse of power, bribery, acceptance of commissions from contracts, auctions or tenders committed at the time when the defendant was in office.
- ✓ The legal system in Algeria also includes provisions to establish corporate criminal liability. According to Article 5 of the Order No. 22-96 of 9 July 1996, companies committing breaches, such as making false statements or failing to obtain the required licenses, were penalized by fines up to fivefold the value of the damages together with the confiscation of the site of the offence.

The survey conducted under the UN report also revealed that Algeria lacked legislation to address the following areas:

1. There is no existing legislation to combat corruption and bribery in international commercial transactions.
2. The legal system does not include provisions to make it impossible for individuals to obtain tax benefits or deductions for payments outside their countries that would constitute bribery or other inappropriate payments to foreign public officials.
3. Algeria has not encouraged the creation of accounting standards, business codes and best practices.
4. As of April 2001, Algeria has not adopted legislation on effective implementation of the principal existing international instruments relating to corruption and bribery in international transactions.

The President and the prime Minister are reported to have increasingly paid lip service to the fight against corruption. (See <http://www.transparency.org/newsletters/2001.3reforms.html>).

Although other Government institutions have conducted anti-corruption initiatives, these reforms have been held as ineffective due to their vagueness.

The Interior Ministry for example had proposed that a security institute with an anti-corruption department be established. The Finance Minister has also indicated a commitment to undertake a revision of the public procurement rules and regulations. The customs authority also introduced a new code of ethics, however this code of Ethics was not publicized.

The Algerian Government has launched the "economic revival programme" however it is feared that without the legislation regulating public procurement specifically aimed at curbing corruption, there will be opportunities created for high incidences of corruption.

Senegal

Senegal became independent in April 1960 after being colonized by the French. Senegal inherited the same legal and institutional frameworks from France and did not generate its own modern institutions.

During the period 1960-1974, Senegal had a single party system in practice even though the Constitution prescribed the concept of the separation of powers. The state of affairs remained the same despite efforts by President Abdou Diouf in 1981 who initiated a new constitutional reform, which sanctioned full democratic evolution by establishing free unlimited creation of political parties. The constitutional reform did nothing to curb the culture of the single party system and thus patronage prevailed. This practice and system therefore encouraged corruption, racketing and the trading of favours. (See national integrity systems-Country Study Report-Senegal-2001).

When President Abdou Diouf came into power in 1981, he initiated campaigns on integrity and this included the passing of legislation to crack down on illicit wealth acquisition in order to fight corruption and public monies embezzlement. The Bill also had a provision for the burden of proof to be cast on the charged individual. A special department in the police and a special jurisdiction were also set up. The legislation although still in place has proved to be ineffective up to date with very few cases actually being processed and completed.

Government initiatives, which have been undertaken, are the following:

- 1998: A good governance national programme was drawn up.
- 1999: July: A survey aimed at the public on their views of the service offered for public utility services in order for them to express their views and complaints. The President launched a public service and good governance campaign; this campaign was carried out to promote Public Service Ethics and Government integrity.
- 1999; A seminar on corruption was held which focused on the following issues:
 - a) Prevention of corruption.
 - b) Treatment of corruption.
 - c) Pact of integrity between contractors and the introduction of a code of conduct.

d) Political commitment of the head of State to fight corruption.

In March 2000, President Abdoulaye Wade took over power in Senegal. The new Government under President Wade laid down the following commitments as issues to be addressed:

- ✓ Reforms in administrative management.
- ✓ Promotion of transparency and accountability.
- ✓ The introduction and implementation of an anti-corruption campaign.
- ✓ The improvement and development of transport, education, public health, environment and employment.
- ✓ Promotion of the policy of regional integration.
- ✓ Implementation of poverty reduction strategies.

CHAPTER 2

PUBLIC ACCOUNTABILITY AND PARTICIPATION

Motivation

Article 12 of the AU Convention on corruption envisages that State Parties will undertake to allow and encourage full participation of the media and civil society through their monitoring the process and the Government consulting civil society and the media in its action plans and that there is access to information in cases of corruption.

Indicators

1. Facilitation of the involvement and participation of civil society to take part in the formulation and monitoring of anti-corruption strategies.
2. Guarantee the public's right to information about corruption and corrupt activities through the protection of the freedom of press.
3. Publishing details of companies found to have engaged in corrupt practices.

Problems

In most cases government will indicate that it will allow public participation in addressing corruption. Unfortunately most measures, which include public participation, are usually government led and government controlled. It is therefore important that coalitions are formed.

Ethiopia

The 1994 Constitution guarantees the respect of human rights, it provides for freedom of the press, right to peaceful assembly, freedom of association and the right to engage in unrestricted political activity. National elections were held in May 2000 for the House of People's Representatives (HPR).

However despite these constitutional guarantees it was reported that prior to the elections, opposition parties claimed that candidates had been refused registration and endorsement, supporters had been harassed and intimidated, local administrators had been partial and state media had failed to provide agreed services. There were also reports of violence linked to polling and demonstrations prior to the polling.

Ghana

A significant development that has taken place in Ghana since the inception of the new government under President Kufuor is the repeal of the Criminal Libel law allowing the media more freedom to report on pertinent issues.

The average Ghanaian is now also free to express his/her opinion openly without fear of arrest.

The Government has taken considerable action in addressing corruption through:

- ✓ Involvement of grassroots people in governance issues.
- ✓ Parliamentary oversight has also been enhanced through the Public Accounts Committee.
- ✓ General surveys on corruption have been conducted.
- ✓ Capacity building training seminars for the media agencies have been held to enhance investigative and reporting skills.
- ✓ An anti-corruption coalition group has been formed and this includes the CHRAJ.

The President has established a special secretariat at the office of the President, which is open to the public to report any act of malpractices and corruption.

The Office of Accountability, which is aimed at creating a conducive medium through which any person that has information on any acts, could freely report such acts for investigation. The Government's strategy to fighting corruption is to promote openness, improved public financial management and participation.

One of the major drawbacks which counters the anti-corruption campaign is that it has been noted that the level of accountability and transparency remain low in national and sub-national administration.

There is also the presence of a weak civil society and very little cooperation among them. (See <http://www.worldbank.org/wbi/governance/Ghana/pdf/gha>).

Some of the problems that hamper progress in public accountability and participation are:

- a) Lack of information and the data that is available is mostly unreliable and disconnected.
- b) The lack of coordinated coalitions.

The media lacks access to information on the operations of Government although this might be improved by the repeal of the Criminal Libel and Sedition laws.

Furthermore there are plans underway to introduce the Freedom of Information Act to Parliament. The Government officials are also constrained by the Official Secrets Act and often refuse to give information citing the Act.

There has also been the prosecution of journalists in the past when they had reported on sensational articles. In terms of coordination and supervision of government agencies, it has been reported that there is too much red tape and this has led to difficulties in accessing information from Government.

Kenya

In 2002, Kenya had the Books and Newspapers Act amended and this raised the cost of libel insurance bond from \$US128, 00 to about US\$12, 800.

The amendment also required publishers to submit two copies of each of their publications to the Attorney General's Office before selling another copy. The law was described by the New-York based Reporters without Borders as "repressive" and as representing a " clear threat" to media diversity in Kenya. (See IRIN news).

The Human Rights Watch who indicated that the law contradicted the provisions for freedom of expression enshrined in Kenya's Constitution also criticized the amendment. However President Arap Moi who was head of State at the time was reported to have said that he would give his assent to the Bill in order to curb ' irresponsible journalism".

The new Government under President Kibaki on coming into power indicated that it would address issues of public accountability by: (see the speech by the Minister of Justice and Constitutional Affairs-11thIACC- May 2003).

- ✓ Its commitment to dealing with corruption in a just, transparent and effective manner.
- ✓ Collaborating with the private sector and professions.
- ✓ Collaborating with development partners, civil society and the media.
- ✓ Changing society's attitude to corruption.

Nigeria

One of the remarkable events that took place in Nigeria were the events leading to the promulgation of the Corrupt Practices and Other Related Offences Act which was passed in the year 2000. During the Bill stage, NGOs and CSOs were able to contribute to the drafting of the Bill as public hearings were conducted in Lagos in order to examine the draft Bill and were able to make recommendations to strengthen the Bill. The recommendations were presented to the National Assembly in 1999 and one of the recommendations was that anti-corruption measures should be widened to include private sector corruption.

The anti-graft campaign led by President Obasanjo has received a low rating by Transparency International. TI is skeptical of how much can be achieved by the Government's campaign to fighting corruption in the country. TI has held that the top-bottom approach employed by Government is " not effective and sustainable." (See This Day, October 22, 2001.

Uganda

The media in Uganda has been given greater media independence allowing it to put more pressure on Government to investigate acts of corruption.

The Ugandan Constitution has guarantees, which allow for the empowerment and encouragement of the active participation of all citizens at all levels. The Constitution further provides that the State shall be guided by the principle of decentralization and devolution of governmental functions and powers. The Constitution further makes provision that the State shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them. Part XXVI contains an accountability section, which prescribes that all persons placed in positions of leadership, and responsibility shall be answerable to the people.

The Government strategy to fight corruption, which was initiated in 1994, was designed to foster change in institutional behaviour. Some of the strategies to be initiated include the active participation of the public in the anti-corruption strategy in order to increase the accountability of the State thus allowing for effective institutional reform.

The Strategy was also aimed at strengthening the press in order for the media to report on cases of corruption. Some of the measures carried out by Government include the following:

- a) Conducting of public awareness campaigns on the dangers of corruption.
- b) Action plans were implemented and these action plans were formulated in such a way as to include the districts and the grass roots level in order to enhance public oversight.

The strategy was based on ' trial and error" (see Country assessment of Uganda by NORAD- www.norad.no

The first National integrity workshop was held in 1994 and this workshop included representatives from different sectors. The groups included representatives from Parliament, civil society, private sector and the media. This also led to other workshops as well as surveys on corruption on households and businesses. The surveys and workshops were designed by Ugandans with the World Bank and Transparency International.

The action plans from the anti-corruption strategy have included measures to strengthen the role of the media in reporting corruption through promoting their independence and freedom.

However the strategy has been criticized as lacking prioritization and overall strategic coordination.

South Africa

The Public sector Anti-corruption Strategy provides for partnerships with stakeholders including the revitalization on the National Anti-corruption Forum (NACF).

The NACF was launched in June 2001 as a follow up to the National Anti-corruption Summit where it was resolved that the fight against corruption requires a societal response. The Charter has the following objectives:

- ✓ Establishment of a national consensus through the coordination of sectoral anti-corruption strategies.
- ✓ Advising Government on the implementation of strategies to fight corruption.
- ✓ Sharing of information on best practices on sectoral anti-corruption work.
- ✓ Advising all sectors on the improvement on sectoral anti-corruption strategies.

The NACF has not achieved the expected results as it has encountered the following problems:

- a) Practical difficulties to synchronize suitable dates for meetings.
- b) A lesser capacity within in particular the civil society to organize its membership to the Forum.
- c) Lack of a full quota of permanent members from the business and civil society sectors.

Faith-based organizations have been involved in the anti-corruption initiatives in particular they were involved in the government-initiated Moral Regenerations Summit in May 2002.

The media has played a major role in whistle blowing and has the watchdog role to play through exposing corrupt acts including the abuse of power especially in the public sector.

Algeria

Algeria had no independent news media until in the late 1980's. This was because colonial legislation banned all nationalist publications during Algeria's fight for independence. (See [http:// reference all refer.com/country-guide-study/Algeria 153html](http://reference.allrefer.com/country-guide-study/Algeria153.html)).

After Independence in 1964, government tightened its press laws and news publications were nationalized. The Government heavily censored news media.

In 1976, the Government enacted Article 55 in the Constitution and this article allowed for protection to freedom of expression as long as it did not jeopardize the socialist objectives and or national policy of the regime. The Minister of Information was responsible for government supervision and the restriction of the circulation of unauthorized periodicals.

The events changed in the 1980's when the independent national news sources were encouraged and supported. A new Constitution was enacted which guaranteed freedom of expression with no restrictions.

In 1990 a law, which guaranteed a salary, for the first 3 years to any journalist in the public sector who established and independent paper was enacted. This led to the increase in local papers, journals, radio and television programmes and the relaxation of laws inhibiting the international press. Journalists had become an important and influential sector of civil society.

However, this situation changed when as part of the military crackdown following the January 1992 coup, the news media was restricted again. There was a cut down in the number of newspapers and broadcasts that continued to operate, journalists were detained for interrogation, many were arrested or disappeared, some were killed by Islamists.

This trend is reported to have continued in Algeria, there have been several closures of the independent media, which is essential for the battle against corruption. One major obstacle, which was identified, was the lack of transparency of the public sector due to the prevalence of authoritarian rule. (See TIGlobal Report -2—3)

Reports show that the Algerian government has lately restricted several newspapers and journalists who have been victims of violent interrogations and subjected to police brutality. (See TI Press Release, NGOs Fight Against Corruption, 17 September 2003.

The monopoly of the press by the State has been lifted, however the privatization of the media has only been partially realized. The printing works are still under state monopoly and the private press is still dependent on the State for public financing.

Media harassment is rampant, it has been reported that the authorities, and in particular the ruling party under President Bouteflika have stepped up efforts to silence the independent press which continues to report cases of political and business corruption. The Government has used several means to thwart press freedom, which include harassment, incessant summoning by the police of journalists, proprietors and editors and these finally lead to arrests being made. See <http://www.rsf.org./print>.

Article 144 of the Criminal Code provides for a minimum sentence of imprisonment of 2 months and a maximum sentence of one-year imprisonment and fines ranging from 50000 to 250000 dinars (600 to 3000 euros) for insulting or defaming the President, Parliament and the army.

Acts of corruption are closely linked to the ruling party, the private sector is also involved in the scourge since power is exercised by networks of families that are both involved in politics and companies.

Government often thwarts civil society initiatives against corruption.

Senegal

No information found for Senegal

CHAPTER 3

CREATION AND STRENGTHENING OF OVERSIGHT INSTITUTIONS TO FIGHT CORRUPTION

Motivation

Article 20 of the AU Convention on corruption envisages that each State Party has designated a national authority or agency responsible for anti-corruption and other related offences. Article 20(5) further states that State parties undertake to adopt necessary measures to ensure that national authorities or agencies are specialized in combating corruption and related offences.

Indicators

1. Ensuring that anti-corruption agencies are autonomous, independent and governed by good law.
2. Establishment of other oversight institutions e.g. Inspector-General / Auditor General.
3. Restoration and maintenance of an independent judiciary including effective Parliamentary oversight.

Problems

Oversight institutions are more frequently than not under the control and direction of the Head of State, without an independent budgetary process. In most cases they are deemed to be autonomous and independent but in reality are far from that. It is important to define what true independence is.

Ethiopia

The Federal Ethics and Anti-Corruption Commission (FEACC) was established on May 24th 2001 under Proclamation Code 235/1993 with the mission to educate the public, to prevent and fight corruption.

The vision of the FEACC is to “ make Ethiopia a corruption-free country by creating a society that cannot condone or tolerate corruption and vigilantly fights unethical practices” .

The mission of the FEACC is stated as follows:

- ✓ Educating the public about the evils of corruption, promotion of ethics in the public service.
- ✓ Examining and reviewing the practices and procedures of Ministries, etc exposed to corruption and other ethical infractions and advising on how corruption can be reduced.

- ✓ Investigating and prosecuting allegations and complaints of corruption and unethical offences reported by the public or suspected offences.
- ✓ To register assets and financial interests of Government officials and those who are subjected to declare their property and financial incomes.
- ✓ Following up and ensuring that anti-corruption laws are implemented and providing advice on their execution.
- ✓ The preparation of Codes of Ethics for Government Ministries including the follow-up on their implementation and the provision of advice during preparations.

The Commission is entrusted with the following specific objectives:

- To create a society that cannot condone or tolerate corruption by promoting ethics and anti-corruption education.
- To prevent corruption in government institutions and enterprises by researching into and reviewing the working procedures, systems and methods and submitting proposals for improvements.
- To create and promote integrity in the public service by detecting, investigating and prosecuting corruption offences.
- To prepare and follow-up on the implementation of Codes of Ethics for public officials and public servants.

The Commission has as one of its mandates, the promotion of ethics education. Educating the public, using different methods, have been carried out. Training manuals on different topics have been prepared and reading materials have been collected from different sources.

Various radio and television programmes that focus on the dangers of corruption have been transmitted and various articles have been printed in the Amharic daily newspaper, *Addis Zemen*. Artistes have also been invited to participate in an open tender to prepare television and radio dramas on corruption.

A national trainers training workshop that enables participants to establish ethics clubs in all schools in the country has been established. Discussions have also been held with the Ministry of Education on how to teach ethics in the regular school programme.

One of the powers conferred upon the Commission by the Proclamation is investigation and prosecution of corruption offences committed in Federal Government offices and public enterprises and offences committed relating to subsidies granted to regions by the Federal government when it receives information on corruption. The statistics as at the year 2003 were as follows:

- 1014 disclosures of corruption offences, complaints and reports that were brought to the Commission through different means have been recorded and their contents scrutinized. Accordingly,

267 of the cases were held as out of the scope of the power of the Commission.

- ❑ Among the reports which have been brought to the Commission from different government offices and public enterprises, it has been decided that investigation be carried out in only 5 of the reports.
- ❑ Eight complaints, which by their nature call for prompt decisions relating to tender and procurement procedures have been brought to the Commission. Action has been taken on five of them; the remaining three were still being investigated.
- ❑ Investigation of forty-four cases of corruption offences, relating to different Federal government offices and public enterprises is also being undertaken.
- ❑ Investigations of new corruption offences on 13 public offices are almost complete. Among such offices being investigated was the Ethiopian insurance Corporation and the Ethiopian Customs Authority.

The Government budget is the only source of funding for the Commission.

The Commission has encountered some problems during its operations; these include the following:

- Some reports and allegations, which were beyond the jurisdiction of the Commission, have taken away much needed time thus negating the Commission's actual functions.
- There has been a failure to follow set criteria and schedules in the election of ethics officers; some government departments have reacted negatively to the duties, which are performed by ethics offices.
- Some government departments and authorities were not willing to provide adequate and reliable information when they were requested to do so.
- Different views exist on how the Proclamations on the anti-corruption special procedure and rules of evidence and establishment of the Federal Ethics and Anti-corruption Commission should be exercised.
- The senior leadership positions, except the position of the Commissioner, have been vacant due to lack of competent individuals that meet professional and ethical standards of the Commission.
- The Commission's five -year budget has not yet been approved although it was submitted to the pertinent bodies on time.

The FEAC has been given a different mandate from the regular judicial system to prosecute cases on corruption. There is no bail for suspected corruption offenders. Hotlines to report cases on corruption have been set up and this includes systems to protect whistleblowers.

The Government has taken a zero tolerance to corruption and negates any form of bribery and nepotism. The FEAC is accountable to the Prime Minister who also appoints the Commission through the approval of the Parliament.

The issue of political party funding has only been addressed insofar as funding from outside the country but any domestic funding is permitted under the law. The FEAC however finds it difficult to investigate corrupt cases relating to political parties.

From the Government perspective, it would seem that a new culture towards anti-corruption is emerging in Ethiopia.

Ghana

In order for the government of Ghana to fulfill objectives that ensure transparency and accountability, the Government has established certain key institutions to facilitate private investment, to regulate private sector operations and to protect private sector investment.

The Securities Regulatory Commission has been established to ensure discipline and transparency in the financial sector. The Bank of Ghana and the National Insurance Commission have been strengthened to enhance their oversight of the banking and insurance sectors. The Public Utilities Regulatory Commission has been established to regulate utility pricing and to ensure reliable service and to provide a forum for both private operators and consumers in order to resolve differences amicably. Revenue collection has also been streamlined with the establishment of the Central Revenue Agencies Board.

A special secretariat has been established at the Office of the President. This secretariat will attend to any reports from the public on acts of malpractice and corruption. The secretariat has been given the name of Office of Accountability and is aimed at giving the public access to freely report on corruption and related acts.

Kenya

In Kenya, the Anti-corruption and Economic Crimes Act provides for the establishment of the Kenya Anti-corruption Commission, which has the powers of investigation for corruption and economic crime. The independence of the Commission is guaranteed under section 10 which prescribes that:

"In the performance of their functions, the Commission and the Director shall not be subject to the direction or control of any other person or authority, and shall be accountable only to Parliament."

The Act provides for the appointment of a Director upon the recommendation of the Advisory and the approval of the National Assembly of leading to his/her appointment by the President.

An Advisory Board is provided for and this board shall consist of a member from:

1. The Law Society of Kenya.
2. The Institute of Certified Public Accountants of Kenya.
3. The International Federation of Women Lawyers (FIDA) Kenya Chapter.
4. The Kenya Association of Manufacturers.
5. The Joint Forum of Religious Organizations.
6. The Federation of Kenya Employers.
7. The Kenya Bankers Association.
8. The Central Organization of trade unions.
9. The Association of Professional societies in East Africa.
10. The Architectural Association of Kenya.
11. The Institution of Engineers in Kenya.
12. The Kenya Medical Association.

Nigeria

The Independent Corrupt Practices and other Related Offences Commission (ICPRC) was established in the year 2000 under the Corrupt Practices and other Related Offences Act (the Act).

The ICPRC comprises of a Chairman and twelve other members representing the six geo-political zones in the country. According to section 6(a) to (f) of the Act the duties of the Commission are:

- *Where reasonable grounds exist for suggesting that any person has conspired to commit or has committed an offence under this Act or any other law prohibiting corruption, to receive and investigate any report of the conspiracy to commit, attempt to commit or the commission of such offence, in appropriate cases, to prosecute offenders.*
- *To examine the practices; systems and procedures of public bodies and where in the opinion of the Commission, such practices, systems or procedures and or to facilitate fraud or corruption, to direct and supervise a review of them.*
- *To instruct, advise and assist any officer, agency or parastatal.*
- *To advise heads of public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the duties of public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences.*
- *To educate the public on and against bribery, corruption and related offences.*
- *To enlist and foster public support in combating corruption.*

The Act also gives the Commission powers of arrest and detention on any person summoned to the Commission but who fails to do so. The funding of the Commission is problematic as it is obtained from the State. The Commission however is reported to be suffering from poor funding from government and this has seriously undermined its capacity to fight corruption.

During the 2003 budget, the Chairman of the Senate Committee on the Anti-corruption Commission stated that Nigerians were not impressed with the performance of the ICPRC since its inception. The Chairman also questioned whether this was due to lack of adequate funding or political will on the part of government. (See This Day, 23 Jan2003).

It has also been noted that the Commission is under funded and that shortage of funds had been affecting its performance especially in the areas of public enlightenment, investigation and prosecution. He further noted that the Commission's allocation in 2002 was less than 50% of what was budgeted for.

The institutional capacity of the Commission has also been questioned as the officers lack experience especially in procedures of investigation.

There is also concern that the Commission lacks adequate legislative powers. During the enactment of the Bill on corruption, many politicians and members of Parliament, army and public officials feared that the provisions of the Bill were aimed at themselves leading to the watering down of provisions of the Bill. The Commission was left with powers only to investigate and report corruption and not directly to prosecute corruption.

The Commission is required under the Act, to send a report of investigation to the Chief Justice, who if satisfied that an offence is disclosed shall appoint an independent counsel to conduct further investigation into the allegations made against the alleged offenders.

Such independent counsel shall thereafter make a report of his findings. Where the investigations involve the President or Governor the case is referred to the National Assembly who if satisfied that there is a case to answer may initiate impeachment proceedings against the President. This will continue to incapacitate the Commission and to reduce its effectiveness, autonomy and relevance to fighting corruption.

Nigeria

The current anti-corruption agencies operate within the anti-corruption framework, which has been defined by Government. This framework has some weaknesses, which are attributed to outdated laws to prevent and address corruption. The institutions in turn remain weak and ineffective and often perform their functions independently of one another since the Constitution guarantees their autonomy.

The performance of the Inspector General of Government (IGG) has been reported as below expectations. This is further exacerbated by the results, which show that between July 1997 and April 1998, the office only investigated 36% of received investigation requests and prosecuted 10% of the expected cases. Only 2% of the 300 leadership code declaration were received.

Some of the problems confronting the IGG are:

- Lack of institutional capacity as some of the staff lacks the skills required for dealing with corruption.
- The inadequacy of the systems in place to combat corruption.
- The lack of incentives for the staff.
- The inability of the office to prioritize and focus its efforts where they are most needed.
- The limited financial resources, which hinder effectiveness of fighting corruption.

The Directorate of Ethics and Integrity (DEI) is responsible for spearheading the overall Government strategy for fighting corruption. Even though the DEI has been mandated by Cabinet to address issues of corruption, it does not have the legislative power to coordinate the activities effectively. The main problem associated with the DEI is that of lack of financial resources to carry out its duties; which includes strategizing the Government strategy to fighting corruption.

The Criminal Investigation Department National Fraud Squad together with the IGG undertakes all investigations of Government and parastatal corruption cases. The capacity of the National Fraud Squad is weak as the incentive for ensuring that staff performs effectively is non-existent. Furthermore staff is not adequately equipped to perform their jobs nor experienced enough to deal with complicated cases of modern day.

The main executing agency for the prosecuting of corruption cases for the 1970 Prevention of Corruption Act is the Director of Public Prosecutions (DPP).

Since 1995, the IGG has also been granted with prosecution powers. This situation will change in the future the role of the IGG in the prosecution of corruption cases which will be increased. The DPP however is not mandated to pass over cases of fraud, false accounting and theft to the IGG.

The Legal and Parliamentary Committee is comprised of 15 members who receive and review the IGG's annual report to ensure that the institution is meeting its Constitutional obligations. However this Committee has been held as ineffective as it lacks the necessary commitment to discuss reports submitted to it by the IGG.

There are Parliamentary Committees, which are established to investigate high profile corruption cases. These select committees have also been reported as ineffective as this tends to cause duplication in activities. Furthermore the system has been reported to allow MPs involved in such cases to sabotage the process by destroying evidence as soon as they hear that their case is being investigated.

The Courts of law are reported as having a significant backlog of corruption and other criminal cases to work through and hence there is need to target for a more effective system which will address the fight against corruption. The courts are also understaffed and hence there is a great demand for competent staff with adequate training.

South Africa

The Public Sector Anti-corruption Strategy seeks to address institutional capacity in the following areas:

- ✓ The capacity of the courts to preside over corruption cases.
- ✓ Improved coordination and effectiveness of departments and agencies that have national anti-corruption mandates.
- ✓ Improved capacity for all departments and a focus on anti-corruption programmes.

The South African Police Services (SAPS) is tasked with investigating cases of corruption in general, including corruption within SAPS. SAPS have three branches that investigate corruption. SAPS however prefers to frame corruption charges as fraud or theft due to the difficulties experienced in securing convictions under the Corruption Act of 1992.

The Directorate of Special Operations (DSO) of the National Prosecuting Authority was established in the year 2000 under the National Prosecuting Authority Act 32 of 1998. The DSO has an operational desk on integrity and anti-corruption. The DSO has a unit, which focuses corruption associated with organized crime activities. The DSO handles corruption cases, which are more complex than those handled by the SAPS Commercial Crime Unit.

The Special investigation Units and Special Tribunals Act of 1996 and the amendment of 2001 provides for the establishment of Special Investigation Units to investigate serious malpractices of maladministration State institutions, state assets and public money, as well as any conduct which may seriously harm the interests of the public.

In terms of section 2 of this Act, the President of the Republic may establish and refer to a Special Investigating Unit, a matter arising from any alleged:

- Serious maladministration in connection with the affairs of any State institution.
- Improper or unlawful conduct by employees of any State institution.
- Unlawful appropriation or expenditure of public money or property.
- Unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing on State property.
- Intentional or negligent loss of public money or damage to public property.
- Corruption in connection with affairs of any State institution.
- Unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof.

The Special investigation unit has powers to recover assets lost through corruption. It can recover assets through the civil courts and only has to prove the case on a balance of probabilities.

The SA Revenue Service Act of 1997 and the Customs Excise Act of 1964 empower the South African Revenue Authority (SARS) to collect all state revenue. SARS has a zero tolerance approach to internal fraud and corruption. SARS has an Anti-corruption Unit, which coordinates investigations and cooperates in joint investigations with law enforcement agencies.

The Commission Act of 1947 makes provision for the conferring of certain powers on Commissions appointed by the President for the purposes of investigating matters of public concern, including corruption. Commissions are empowered to require persons and documents to appear before them.

The Department of Public Service and Administration was tasked by Cabinet to develop and implement the Public Sector Anti-corruption Strategy and to coordinate anti-corruption work at policy level.

Algeria

No information has been found on anti-corruption agencies in Algeria.

Senegal

No information has been found on anti-corruption agencies in Senegal.

CHAPTER FOUR

TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT AND PRIVATE SYSTEMS

MOTIVATION

Article 7 of the African Union Convention on Corruption provides for the ensuring of transparency, equity and efficiency in the management of tendering and hiring procedures in the public service and the principles in Article 3 also prescribe that State parties shall abide by principles of accountability and transparency.

INDICATORS

1. Establishment of budgetary and financial transparency and strong financial management systems.
2. Promote transparency in procedures for public procurement and tender procedures.
3. Require companies and organizations to maintain adequate and accurate financial records.
4. Promote standards for corporate governance.
5. Prohibition of companies found guilty of corruption from bidding on public contracts.

PROBLEMS

Government and private sector need to be monitored to ensure transparency and accountability in their systems. In most cases both sectors will give an account of transparency and accountability without showing government signs of visible improvement. This requires an initiative from civil society and media to monitor their progress.

ETHIOPIA

The Federal Ethics and Anti-Corruption Commission (FEACC) was established ON May 24 2001 under proclamation 235/1993 with the mission to educate the public, to prevent and fight corruption. The Prime Minister is at the forefront of ensuring that the Government is engaged in NEPAD. Reforms in the form of liberalization, democratization and principles of good governance have been initiated. Significant progress has been made in anti-corruption with senior government officials and executives from the private sector being brought to court over cases of corruption.

The Government has also set up mechanisms to familiarize the public with NEPAD. Plans are underway to make the public sector more transparent through civil sector reforms. Codes of conduct are being established in every government department. Senior government

officials are required to declare their assets to the FEACC.¹ The FEACC has focused much on the public sector. The commission is granted the power to investigate and prosecute alleged corruption offences committed in public offices and enterprises.

In an effort to improve transparency and accountability in the Customs Department, privatization has been initiated. There has been a significant drop in corrupt practices as a result of this privatization in the Customs Department. A committee has been established to look into issues of procurement.

GHANA

The Government of Ghana under its Poverty Reduction Strategy 2000-2002 established a Securities Regulatory Commission to ensure discipline and transparency in the financial sector. The Bank of Ghana and the National Insurance Commission have been strengthened to enhance their oversight of the banking and insurance sectors. The Ghana Investment promotion Centre has been transformed from an investment regulation authority to an investment facilitation agency to encourage the inflow of foreign private capital. A call has been made for the strengthening of the capacity of the state for it to promote better governance. A key challenge that the Government is facing is the lack of equitable distribution and management of public finances.

The Government of Ghana regards public financial management as an important focal point of economic recovery. Measures that are being taken by the Government indicate that transparency and accountability will be improved. An indicator of this is the establishment of budgetary and financial transparency and strong financial management systems. The Government of Ghana's measures taken include the following:

1. The Budget and Public Expenditure management System (BPEMS) which was due to be implemented at the beginning of 2003.
2. The Ministry of Finance has established a non-tax revenue unit to facilitate the collection, accounting, reporting and monitoring of non-tax revenue.
3. A programme of action to create a Large Taxpayers unit (LTU) was developed. This was planned to become operational in early 2003.
4. As part of the process to institutionalize the Medium term Expenditure Framework (MTEF) process, the Ministry of Finance made plans to establish a budget Development Unit²

The measures taken by the Government for 2000-2002 included completion of the restructuring of the Ministry of Finance, complete the design phase of the fiscal decentralization, improve cash-flow

¹ This requirement is in line with the principles set out in Article 7(1) of the African Union Convention On Corruption. Article 7 (1) provides as follows: " In order to combat corruption in the public service, State Parties commit themselves to 1. Require all or designated public officials to declare their assets at the time of assumption of office, during and after their term of office in the public service."

² " Positive Change...So Far So Good" Achievements and Challenges of the New Patriotic Party (NPP) Government in Ghana January 2001 -december 2002 Report.

management and expenditure control, improvement of timelines of Accountant-General's monthly reports and the formulation and implementation of public procurement code. These measures improved financial transparency and also led to a much stronger financial management system. The formulation and implementation of a public code promoted transparency in procedures for public procurement and tender procedures.

The impact of these strategies were to achieve the following:

- Improved management of the public sector.
- Ready availability of information on Government expenditure.
- Improved expenditure management by central government.

In order to deal with the executive overriding the financial management system through the Ministry of Finance, a Parliamentary Oversight Committee has also been enhanced through the Public Accounts Committee.

Although the Government has made remarkable progress in addressing issues of corruption, there still remains room for improvement. It has been noted that the level of accountability and transparency remain low in national and sub-national administration. Amongst some of the problems identified and which hamper progress in anti-corruption is procurement fraud.

In line with the principles of Article 7(1) of the AU Convention On Corruption, Ghana has in place a Public Office Holders (Declaration of Assets and Disqualification) Act of 1998. The Act designates certain public officials to submit to the Auditor-General a written declaration of all properties and assets as well as liabilities that the official has either directly or indirectly. This is important in that it promotes a standard in corporate governance. By disclosing their assets and liabilities, public officials are deterred from engaging in corrupt practices that will result in the accumulation of assets whose origins cannot be explained.

KENYA

One central principle of the objective of public finance is to create capital for a country's economy consistent with economic growth. This principle enables a government to plan management of its revenues with a view to creating a budget surplus where expenditure is less than the revenue raised. The problems that the country faces that present opportunities for corruption in so far as transparency and accountability of government is concerned have been reported as the following:

1. Lack of proper financial management, inadequate planning and weak accounting and audit management information systems.
2. Weak public procurement systems.
3. Inadequate operational systems for the public sector.
4. Ineffective and inefficient customs and revenue departments.

The problems faced by Kenya, which makes it difficult for transparency, and accountability in Government systems has their roots in financial

management.³ The resultant problems relating to financial management are that there is inadequate technical manpower and facilities to enable proper accounting of budget resources, weak accounting and audit management information systems and the implementation of audit reports. President Kibaki in the run up to the Presidential Elections held in December 2002 pledged to introduce anew constitution and revive the anti-corruption commission upon being elected into office. Upon his election into office, President Kibaki indicated that he would take measures to address corruption in Kenya.

In the area of public procurement, it was noted that there are many loopholes. This creates fertile ground for corruption. The procurement personnel have little ability to understand the system. To strengthen this area, it was intended to review all necessary laws that regulate public procurement. It is also intended to undertake training and capacity building of the procurement staff, review service regulations and to blacklist deviant suppliers. The Honorable Kiraitu Murungi the Minister of Justice and Constitutional Affairs⁴ in the Kenyan Government said that the Government was collaborating with the private sector and professions in the fight against corruption.

NIGERIA

Nigeria is a country with vast wealth and resources. The majority of Nigerians however live below the poverty line. The main causes of corruption in Nigeria in so far as they relate to transparency and accountability of the Government have been identified as follows:

1. Pervasive culture of giving which encourages the flouting of rules and regulations in favour of the person who is prepared to pay for the service irrespective of whether or not the bidder is the right person to be awarded the tender.
2. A weak corruption reporting system.
3. The absence of positive incentives from the employer.
4. Poor internal management practices, which create fertile, ground for corruption.
5. Wide authority and little accountability on the part of government officials.
6. Ineffective anti-corruption laws.
7. The Centralization of authority and power.
8. The lack of political will to deal with corruption.

A number of initiatives have been put in place to promote accountability and transparency. The Corrupt Practices And Other Offences Act was promulgated in the year 2000. The Act establishes an Independent Corrupt Practices and other Related Offences Commission giving the Commission a mandate to fight against corruption. The duties of the Commission as set out in section 6 of the Act include the examining of practices, systems and procedures of public bodies and

³ 9th IACC: Kenya's National Anti-Corruption Strategy executive Summary.

⁴ "Corruption Is A Crime Against Humanity" speech delivered at the Opening Of The 11th International Anti-Corruption Conference on 25 May 2003 in Seoul North Korea.

where in the opinion of the Commission, such practices, systems or procedures facilitate fraud or corruption, to direct and supervise a review of them. The duties of the commission also include advising heads of public bodies of any changes in practices, systems and or procedures compatible with the effective discharge of the duties of public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences.

The Government has also initiated a new policy known as "Due Process". This policy is aimed at enforcing compliance in budgeting, procurement and expenditure. The Federal Executive Council conducted the formalization of the Due Process Guideline after the approval of the President's Memo on the 31st October 2001. This formalization gave the responsible unit the institutional mandate to track on government budgeting, contracting and capital expenditure management. These measures assist in enhancing transparency and accountability of the government.

There have been some drawbacks in the government's commitments to fighting corruption. This is more so in view of the existence of the Official Secret ordinance of 1942. This piece of legislation transforms virtually all information about governance into state secrets. This means that civil servants are not able to disclose crucial information. This makes it difficult to achieve the level of transparency necessary to effectively deal with corruption.

In 2001, President Obasanjo revealed that a new code on corporate governance would be introduced to facilitate the fight against corruption. This is in an effort to reduce the cost of doing business in Nigeria and also to address corruption in the private sector.

UGANDA

The Idi Amin regime in Uganda from 1971 to 1979 resulted in a complete breakdown of the rule of the law and mechanisms designed to monitor political and financial accountability. Since 1986, there has been a thrust towards combating corruption. A National Integrity System was created and this saw the involvement of not only the executive but also other stakeholders who include civil society and the media.

The Government has accordingly initiated the following measures aimed at increasing transparency and accountability:

1. Control systems to make the Government departments more efficient are being implemented.
2. New public procurement regulations are being drafted to replace the archaic Central Tender Board regulations.

The Ugandan Constitution provides for democratic principles which empower and encourage the active participation of all citizens at all levels, it also stipulates that the state shall be guided by the principle of decentralization and devolution of governmental functions and powers.

SOUTH AFRICA

South Africa has put in measures to increase transparency and accountability in Government. The Public Finance Management Act (PFMA) and the Municipal Finance Management Bill set out requirements for the financial management of public funds. The objectives of these requirements are to ensure transparency and accountability. Section 215 of the South African Constitution stipulates that national, provincial and municipal budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy, debt and the public sector. Chapter Four (4) of the PFMA sets out the budget process and gives effect to section 215 of the Constitution.

Section 216 of the Constitution requires national legislation to establish a national treasury and to prescribe measures to ensure transparency and expenditure control in each sphere of government. These measures will be affected by the introduction of:

- Generally recognized accounting practices.
- Uniform expenditure classifications.
- Uniform treasury norms and standards.

The Municipal Finance Management Bill 2002 (MFMB) will replace the Local Government Transition Act of 1993. The MFMB will serve as a legislative control for local government. The MFMB makes provision for transparency, accountability and sound management of revenue, expenditure, assets and liabilities of the local government institution.

The Auditor General is required in terms of section 188 of the Constitution, to audit and report on the accounts, financial statements and financial management of all national and provincial state departments and administrators, all municipalities and any other institution or accounting entity required by national or provincial legislation to be audited by the Auditor General. The powers of the Auditor General are currently under review with a view to:

- Align the Auditor General Act with the constitution and with any other relevant newly promulgated legislation.
- Improve specific operational provisions.
- Bring the provision of services into line with the latest trends in international public sector auditing.

Section 195 of the South African constitution lays down the values and the principles that govern public administration. These values and principles include:

- A high standard of professional ethics.
- Efficient, economic and effective use of resources.
- Public administration must be development oriented.
- Services must be provided impartially, fairly, equitably and without bias.
- Peoples' needs must be responded to and the public must be encouraged to participate in policy making.

- Public administration must be accountable.
- Transparency must be responded to, and the public with timely, accessible and accurate information.
- Public administration must be broadly representative of the South African people, with employment and deployment based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

The provisions cited above seek to promote good governance and allows for transparency and accountability in both the public and private sectors. The financial management systems in South Africa have proved to be effective. There has been the unearthing of cases of corruption in cash handling, maintenance and deceased estates accounts. Government officials have misused state assets and this information has been discovered by the Department of Justice in conjunction with the office of the Auditor General, officials have also been prosecuted. The office of the Auditor General is well positioned to identify weaknesses in controls. In particular, the Forensic Auditing Unit is responsible for checking the effectiveness or weaknesses of controls.

With respect to promoting transparency in procedures for public procurement, in 2001, Cabinet approved initiatives to improve the procurement process based on the principles of value for money, open and effective competition, ethics and fair dealings, accountability and reporting and equity. Recently, the Public Service Commission has recommended that government contracts should in future only be awarded to companies who agree before hand in writing that they will not tolerate corrupt practices such as bribery by anyone. The Public Service Commission handed over a report to Parliament in which it outlines a system to officially “blacklist” some contractors and officials. The system would focus on bribery, coercion, and payment of excess tender amounts into unauthorized accounts, excessive entertainment allowances and even government officials who win tenders in their private capacity.⁵

Procurement reform was initiated in 1995. A Green paper on Public Sector Reform in South Africa was published in April 1997. Section 217(1) of the Constitution provides the basis for procurement. Section 217(3) of the Constitution confers an obligation for national legislation to prescribe a framework that provides for preferential procurement system. Sections 215-219 require that the National Treasury introduce uniform norms and standards within Government, to ensure transparency and expenditure control measures.

A Framework and Policy Guidelines have been designed to give effect to the Cabinet directive. The guidelines will apply to the acquisition and disposal of all goods, services, construction and road works and immovable property of all organs of the state, including constitutional institutions and public entities as defined in the Public Finance And Management Act. The objectives of these guidelines are to:

⁵ See News24.com, May 14, 2003.

- Give effect to the constitutional and legislative provisions.
- Transform the procurement and provisioning functions in Government into an integrated supply chain management function.
- Introduce a system for the appointment of consultants.
- Create a common understanding and interpretation of government's preferential procurement policy objectives.
- Promote consistency in respect of supply chain policy and other related policy initiatives in Government.

The measures that have been taken by the South African Government illustrate a commitment to achieving the principles set out in Article 7 of the Au Convention On Corruption. The measures strengthen accountability of both the public and private sectors. They also introduce transparency in the dealings that Government has with the private sector and within Government itself.

ALGERIA

Upon attaining independence, the Algerian economy was put under state control. The main economic sector in Algeria is petroleum. At Independence, the state did not endeavor to put in place transparent and accountable procedures. The state thus has full control over public goods and private ownership of property is not recognized. This has led to difficulties in identifying corruption in Algeria. Furthermore, effective rule for administration of companies are non-existent. The results of companies are kept as information for the top branch of the companies.

Although efforts have been made to counter corruption in Algeria, through agreement entered into between Algeria and the European Union, no institutional reform has been initiated nor has the economy been liberated. A major obstacle that has been identified is that the lack of transparency of the public sector due to the prevalence of authoritarian rule.⁶

Algeria has in place, some legislative provisions to counter corruption. Algeria was involved in a survey instrument on the implementation of the United Nations Declaration Against Corruption and Bribery in International Commercial Transactions.⁷ According to the survey, Algeria has legal provisions to establish corporate criminal liability. In terms of Article 5 of the Order No 22-96 of 9 July 1996, companies committing breaches, such as making false statements or failing to obtain the required licenses, were penalized by fines of up to fivefold the value of the damages together with the confiscation of the site of the offence. It is argued that these provisions go a long way in acting as a deterrent to engaging in corrupt activities by corporate bodies.

⁶ Transparency International Global Report, 2003.

⁷ UN Report 15 February 2002.

The survey also revealed that Algeria lacked legislation in addressing the following areas:

- There is no existing legislation to combat corruption and bribery in international commercial transactions.
- The Government has not encouraged the creation of accounting standards, business codes and best practices.
- As of 2 April 2001, Algeria had not adopted legislation on effective implementation of the principal existing international instruments relating to corruption and bribery in international transactions.

The Government has launched the "economic revival programme". However, it is feared that without legislation regulating public procurement specifically aimed at curbing corruption, there will be opportunities for high incidences of corruption.

SENEGAL

At independence in April 1960, Senegal inherited the same legal and institutional frameworks from France and did not generate its own institutions.

In March 2000, President Abdoulaye Wade took over after forty (40) years of Socialist rule. The new Government under President Wade now has the following issues to address:

- Administrative management.
- Transparency.

Not much information was available on this item.

CHAPTER FIVE (5)

ADMINISTRATIVE AND CIVIL SERVICE REFORMS

MOTIVATION

ARTICLE 7 OF THE African Union Convention On Corruption requires all or designated public officials to declare their assets whilst in the public service.

INDICATORS

1. Simplification of Government systems and procedures.
2. Establishment of merit based recruitment with adequate remuneration for employees.
3. Establishment of effective revenue collection systems.

PROBLEMS

Civil service reforms have been conducted in the past without any concrete results. Civil service reforms should target on achieving real results with concrete time based programmes targeted on efficiency and effective performance.

ETHIOPIA

The establishment of the Federal Ethics And Anti-Corruption Commission (FEACC) in May 2001 was a step in the right direction of simplifying Government systems and procedures. This is so because part of the mission of the FEACC is to:

- Examine and review the practices and procedures of ministries exposed to corruption and other ethical infractions and advise on how to reduce them.
- To follow up and ensure the implementation of anti-corruption laws and provide advice on their execution.
- Undertake research on ethical infractions.

Furthermore, the Commission is entrusted with the following specific objectives, among others, to prevent corruption in government institutions and enterprises by researching the working procedures, systems and methods and submits proposals for improvement. The mission and specific objectives of the Commission give the Commission the mandate to review Government procedures. The Commission is empowered to submit proposals for the improvement of working procedures and systems. This effectively means that while it may be difficult to conclusively say that Government systems and procedures have been simplified in Ethiopia, one can say that there is scope to improve these under the existing framework.

The Commission has encountered some problems during its operations. Some of these problems include the following:

1. Some reports and allegations which were beyond the jurisdiction of the Commission have taken away much needed time thus negating the Commission's actual functions, and
2. Failure to follow set criteria and schedules in the election of ethics officers, some government departments have put a negative influence on the duties which are performed by the ethics officers.
3. The senior leadership positions, except the position of the Commissioner, have been vacant due to lack of competent individuals that meet professional and ethical standards of the Commission.

These problems in turn make it difficult for the Commission to realize its mission. It will also make it very difficult for the Commission to put in place systems and procedures that result in the simplification of government systems and procedures.

In the magazine entitled "Ethics"⁸ it is stated that the need for an efficient and effective civil service has been felt in Ethiopia since the fall of the Dergue regime. During the 17-year rule of the Dergue, the civil service was a passive institution, which only served to fulfill the centralization tendency of the regime. There was no clear demarcation between civil servants and politicians or political appointees. With change in 1991, it was felt that the problems of the civil service had to be addressed. A task force was established in 1993 to assess the problems of the civil service from the highest to the lowest administrative tiers and to come up with possible solutions. The aim of the Government was to establish an effective and efficient civil service that could play a significant role in promoting democracy and good governance. The task force found that the Ethiopian civil service was incapable of carrying out its missions, was void of financial, material, and skilled manpower resources, the service rendered to the public was unsatisfactory and that the civil service was underpaid leading to unethical conduct.

Based on the recommendations made by the taskforce, in 1996, the Government initiated the Civil Service Reform. The aim of the reforms embarked upon was the creation of a civil servant that is caring and sensitive to Government properties, one who effectively utilizes the limited resources, a civil service that is accountable to the public, that promotes ethical conduct, accountability, transparency and is responsive. To achieve these objectives, the Civil Service Reform was structured in five sub-programs as follows:

1. Expenditure Management and Control.
2. Human Resource Management Systems.
3. Service Delivery.
4. Top Management Systems.
5. Ethics.

These programs are not exclusive but instead, they are mutually inclusive and they support one another. It is through these reforms that the Federal

⁸ "Ethics" A quarterly published by Ethics Education And Public Relations Department Of The Federal Ethics And Anti-Corruption Commission, Volume 1, Issue 1, August 2002.

Ethics and Anti-Corruption Commission was created. Civil servants are also undergoing performance appraisals and this is an effort to put in place a merit-based system of employment and advancement in the civil service.

GHANA

The Government of Ghana is embarking on strengthening the capacity of the State to promote better governance and in particular there has been a move to address corruption. In 1997, the Cabinet approved for implementation, the Public Sector Modernization Strategy (PUSERMOS) as the framework for rebuilding government and conducting public sector management reforms. PUSERMOS seeks to transform state institutions, their accountability and performance framework and their relationship with the private sector and civil society. There is also a thrust towards the decentralization in Ghana to promote popular participation and ownership of the machinery of Government by shifting the process of governance from command to consultative. This move includes the devolution of power, competence and resources to the district level. This is an empowerment policy and will benefit the system of Government. The process will also result in the simplification of Government processes, as certain things will now be done at the district and provincial levels as opposed to central Government.

There are legislative provisions, which deal with decentralization, and they are derived from the Constitution of Ghana and the Local Government Act 462 of 1993. Other legislative provisions that facilitate the implementation for decentralization include: The Civil Service Law 1993, and the National Development Planning System Law Act 480 of 1994. The strategic measures taken by the Government for the period 2000-2002 include the reform of Government agencies to increase efficiency, quality of service and reduce the drain on public resources. The impact of the strategy is to achieve amongst other things, better public service delivery and more public resources available for delivery of social services and poverty related programmes, improved management of the public sector, improved delivery of public services at the local level and improved policy formulation and service delivery. Clearly, these strategies are aimed at improving the civil service and the workings of Government. These reforms are in line with the principles set out in the African Union Convention On Corruption.⁹ The Government has taken the reform of the civil service very seriously. President John Agyekum Kufuor in his address to the nation on 31 January 2002 said that his Government had now “set about reversing the imbalances in the economy that we inherited...” and that in the previous Governments they “pretended to pay workers who in turn, pretended to work.” The term used in the new phase of reform is termed “Positive Change”. It is aimed that this will see changes in the following areas:

- Revenue generation and collection.
- Fiscal discipline.

⁹ See Article 3 (3), which states that State Parties to the Convention undertake to abide by the principle of transparency and accountability in the management of public affairs.

- Upholding good governance.
- The creation of an efficient and dedicated public service.

The Office of Accountability that was established in the President's office is open to the public to report any act of malpractice and corruption. This office is aimed at creating a medium through which any person that has any information can freely report such acts for investigation. The strategy of encouraging openness is aimed at improving public financial management and participation. Revenue collection has been streamlined with the establishment of the Central Revenue Agencies Board.

Although the Government has put in measures to reform the civil service, there are still a number of challenges that have to be overcome. The general weakening of moral due to low salaries evidences the general integrity of the public sector. Furthermore, this has led to generally low ethical standards and appreciation for the ongoing public sector reforms. There are no strong mechanisms in place to detect and to punish offenders. In terms of coordination and supervision of government agencies, it has been reported that there is too much red tape and the valuation procedures are not consistent with international standards.

KENYA

The Government of Kenya continues to face challenges that present opportunities for corruption to flourish. With respect to the civil service or the public sector generally, some of these factors giving rise to opportunities for corruption to take place include the following:

1. Inadequate operational systems for the public sector.
2. Ineffective and inefficient customs and revenue departments.

Some of the inherent problems that are specific to the public sector and are encountered by the public include the following:

1. Bribing of police officers.
2. Corruption in the health care system.
3. Misuse of funds and corruption in schools.
4. Corruption in land transactions involving the local authorities.
5. Misuse of power among Government officials.
6. Electoral corruption.
7. Corruption in seeking and getting employment.

It is reported that during the rule of Daniel Arap Moi, incidents of corruption reached alarming levels with as much as \$1 billion a year being lost to corruption and the police force was at the forefront of the scourge as the most corrupt institution.¹⁰ In a bid to wipe out the culture of corruption and non-ethical behavior in the public service with a view to raising productivity, the Daniel Arap Moi government initiated a public service integrity programme coordinated by the Directorate of Personnel Management (DPM) and the Anti-Corruption Police Unit.¹¹

¹⁰ See BBC News, 30 May 2003.

¹¹ See BBC Monitoring Service, 27 August 2002.

NIGERIA

Nigeria has lost billions of dollars to corruption leading to the majority of the population living below the poverty datum line although the country has vast mineral wealth and other resources. It has been reported that in Nigeria, corrupt government officials are not punished but are instead, pampered, celebrated and rewarded with chieftaincy titles and other rewards.¹² The major causes of corruption in Nigeria seem to be related to the structure of the public service and seem to thrive as a result of this.

The causes of corruption include the following:

- Poor remuneration of public servants.
- A pervasive culture of giving that has developed over a number of years.
- The absence of positive incentives from the employer to discourage the practice of corruption by civil service employees.
- A weak corruption reporting system which encourages persons to engage in corrupt practices with the assurance that they will not be discovered and therefore made to account for their actions.
- Poor internal management systems, which hinder the detection of any, corrupt practices.
- Wide authority given to public officials with little accountability to go with this authority. This encourages these officials to make any decisions that they please with the knowledge that they would not be made to account for their decisions. This encourages the public officials to make decisions that are not necessarily in the best interests of the organization but in the interests of the public official.
- A complex and cumbersome bureaucracy. This encourages persons dealing with public institutions to find short cuts in order for their business to be processed faster. This results in the public officials providing the service to identify an opportunity to engage in corrupt practices.
- The civil service also lacks effective pension schemes. This encourages public officials to find other ways of making money to create some income to fall back on in the event of leaving the public service.
- The centralization of authority and power encourages the official with the power to engage in corrupt practices. This is so because the official will be fully aware that it is them only who can provide the service that a member of the public requires. This makes it easy for the official to engage in corrupt practices as whoever needs the service would have no choice but to meet the demands of the public official for them to receive the required service.
- Related to the poor remuneration of public officials is the poverty that pervades the Nigerian society. This encourages public officials to engage in corrupt practices to supplement their incomes.
- There is not enough political will to fight corruption. This is probably because the top officials who have the power to ensure that the

¹² www.sakininternational.org/essay.html

necessary political will is attained are also beneficiaries of the corruption that is engaged in.

These various problems have made it difficult to simplify the procedures of government or to put in place a merit-based recruitment with adequate remuneration for the employees. Not much information was obtained on civil service reforms in Nigeria. The Federal republic of Nigeria has in the past developed several programmes and put in place several laws to combat corruption but the situation has not improved. These civil service reforms should target on achieving real results with concrete time based programmes targeted on efficiency and effective performance.

The Corrupt Practices And Other related Offences Act of 2000 paved the way for the creation of the Independent Corrupt Practices and Other Related Offences Commission. The Commission has the mandate to examine the practices, systems and procedures of public bodies and where in the opinion of the Commission, such practices, systems or procedures and or facilitate or corruption, to direct and supervise a review of them. The Commission also has a duty to advise heads of public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the duties of public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences. This gives the Commission power to review Government processes and procedures. Implicit in this power is the ability of the Commission to make recommendations for the simplification of Government procedures and systems. Whether or not this actually happens depends on whether in practice, the Commission is able to fulfill its role given the lack of political will to fight issues of corruption. The Commission has already received criticism from the public that its performance is not what the Nigerians expect of it.¹³

Although there are major drawbacks in the Government-led anti-corruption campaign, various attempts have been made by the Government to address corruption. These attempts include the sacking of several senior civil servants from the Internal revenue Department of the Ogun State Ministry of Finance. They were alleged to have defrauded the government of millions of Naira.¹⁴

UGANDA

The Government of Uganda has implemented measures to its administrative and civil service to enable it to fight corruption. The measures, which have been implemented, include structural reforms, civil service reforms economic liberalization and administrative decentralization. The Public Service has been downsized and this eliminated the existence of "ghost workers" on the Government payroll. Civil servant salaries have been increased threefold to reduce the incentive for petty corruption. A newly established Uganda Revenue

¹³ See This Day, 23 January 2003.

¹⁴ See This Day, 15 August 2003.

Authority has succeeded in tripling the revenue by establishing more effective structures to counter tax evasion. Control systems, which make the Government departments more efficient, are being implemented.

In Uganda the top civil servants work on a contract basis. Their contracts are subject to re-evaluation. This is good as it ensures that these officers retain their positions on merit. The Government has implemented core strategies to prevent corruption from occurring in the core functions of the civil service. These core functions include:

- Human Resource Management.
- Revenue collection.
- Oversight and accountability.
- Public facilities and asset management.

The Government of Uganda has also embarked on reforming the revenue collection of the country. A three-month judicial probe into Uganda's tax authority was conducted and this has resulted in major improvements in revenue collection. In the years, 2000-2001, tax collection fell to eleven comma three percent (11.3%) of gross domestic product.¹⁵ Furthermore, the Uganda Revenue Authority staff is required to declare their assets and interests as well as those of close relatives. There were also similar probes into the police force and defence forces.

SOUTH AFRICA

Amongst the initiatives taken by the South Africa Government to address corruption include the reform of Government institutions. Anti-corruption initiatives are vested in ten (10) bodies and these include the Public Service Commission. The areas of focus for the Public Service Anti-Corruption Strategy is the following:

1. Review and consolidation of the legislative framework.
2. Increased institutional capacity to combating corruption.
3. Improved access to report corruption and the protection of whistleblowers.
4. Mechanisms to prevent corrupt acts between public service employees and business.
5. Improved management policies and practices i.e. improvement on procurement, employment regulations, discipline, information and financial management, disclosure of assets.
6. Management of professional ethics.

Section 195 of the South African Constitution lays down the values and principles that govern public administration. These values include those that are specific to the civil service and how civil servants are to be recruited. The values include the following:

- Good human resource management and career development practices must be cultivated.
- Public administration must be broadly, representative of the South Africa people, with employment and deployment based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

¹⁵ See <http://news.www.bbc.co.uk/1/hi/business>

The Public Sector Anti-Corruption Strategy seeks to address institutional capacity in the following areas:

- The capacity of courts to preside over corruption cases.
- Improved coordination and effectiveness of departments and agencies that have national anti-corruption mandates.
- Improved capacity of all departments to themselves focus on anti-corruption.

The South African Revenue Service Act of 1997 and the Customs and Excise Act of 1964 empower the South African Revenue Service (SARS) to collect all state revenue. SARS has a zero tolerance approach to internal fraud and corruption. A new disciplinary procedure has been implemented and this has led to significant improvements in the system. SARS has an Anti-Corruption Unit, which coordinates investigations and cooperates in joint investigations with law enforcement agencies on tax and corruption.

In year 2000, the Senior Management Service (SMS) was introduced by the Minister for Public Service and Administration in order to strengthen management capacity and integrity. The SMS system is intended to:

- Improve the recruitment, selection and retention of senior managers.
- Establish a more appropriate employment framework.
- Introduce greater mobility of senior managers to be deployed across departments.
- Improve training and development.
- Promote a high standard of ethical conduct and establish an appropriate labour relations framework for managers.

ALGERIA

****No information is on hand with respect to administrative and civil service reforms in Algeria.***

SENEGAL

At independence, Senegal inherited the same legal and institutional frameworks from France and did not generate any of its own institutions. Since 1998, however, the Government has embarked on a number of initiatives to ensure that there is good governance in the country. In March 1998, the good governance national programme was drawn up. This programme had the following objectives:

- The rationalization of the central administration.
- The promotion of local governance.
- The consolidation of democracy.
- The improvement of the legal environment.
- The promotion of a business-attracting environment.

In July 1999, the President of the Republic launched a public service good governance campaign. This campaign was carried out to promote Public Service Ethics and Government Integrity. In November of 1999, a report was compiled and the report had sixty-six (66) recommendations. In March 2000, there was a change of Government.

**No further information found on administrative and civil sector reforms in Senegal.*

CHAPTER SIX

ADOPTION OF APPROPRIATE STANDARDS AND CODES OF GOOD PRACTICE

MOTIVATION

Article 7(2) of the African Union Convention On Corruption requires State Parties to commit themselves to create an internal committee or similar body mandated to establish a code of conduct to monitor implementation.

INDICATORS

1. Adoption of national laws, guidelines and ethical regulations of codes of conduct for public officials, which include rules on conflict of interest, disclosure of assets and gifts.
2. Establishment and enforcement of self-regulating codes of conduct for different professions including the private sector.

PROBLEMS

Codes of conduct are good measures but may fail to achieve effectiveness if the implementation process is not monitored. Codes of Conduct also require strict enforcement, which demands strict adherence to them by all.

ETHIOPIA

The Federal Ethics and Anti-Corruption Commission (FEACC) has amongst its mission, the following:

- To register or cause the registration of the assets and financial interests of Government officials and those who are subjected to declare their property and financial incomes.
- Prepare or cause the preparation of codes of ethics for Government ministries and organizations, follow up the implementation and provide advice during preparations.
- Undertake research on ethical infractions.

The Commission has amongst others, the following specific objectives:

- To create and promote integrity in the public service by detecting, investigating and prosecuting corruption offences.
- To cause the preparation and the follow-up of the implementation of codes of ethics for public officials and public servants.

The Commission has as one of its mandates, the promotion of ethics education. Educating the public, using different methods, have been carried out. Training manuals on different topics have been prepared and reading materials have been collected from different sources.

It would seem that the Commission has the mandate to develop a comprehensive code of conduct for the public sector. This is within the Commission's mission as well as its objectives. This however may not be

realized given the problems that have been encountered by the Commission. The Commission has not received adequate funding for its activities. All the funding for the Commission comes from the Government. The Commission has also encountered a problem whereby some Government departments have failed to follow the set criteria in the selection of ethics officers. This in turn has influenced the officers negatively in the execution of their duties. This again goes to undermining the effectiveness of having codes of conduct, which are to be strictly adhered to by public officials.

GHANA

Ghana has in place the Public Office Holders (Declaration of Assets and Disqualification) Act 550 of 1998. Section 1 of the Act provides that a person who holds a public office mentioned in section three of the Act should submit to the Auditor General a written declaration of all the properties owned by him and all liabilities owed by him. This is irrespective of whether the assets or liabilities are owned or owed directly or indirectly as the case maybe. The Act further provides a schedule that shows the format with which this declaration is to take. The Act further provides that this declaration is to be made before taking office, at the end of every four years and at the end of the official's term of office. Section 7 of the Act sets out what is to happen in the event that an official fails to make this declaration without reasonable excuse or knowingly makes a false declaration. Section 8 of the Act provides that an allegation that an official has failed to make the required declaration shall be made to the Commissioner for Human Rights and Administrative Justice and in the case of the Commissioner for Human Rights and Administrative Justice to the Chief Justice. These measures are to ensure that public officials do not acquire properties or assets that they are unable to explain. This also ensures that whatever property is acquired by a public official, it will be easy to assess the means of that public official and to assess whether or not the assets have been acquired lawfully.

KENYA

Kenya has a Public Officer Ethics Act of 2003. Part IV of the Act provides for the requirements of income, assets and liabilities. All public officials and employees are required to declare their income, assets and liabilities and those of their spouses and dependent children. The submission of the declarations must be carried out on joining the public service, furthermore officials are required to submit the declaration once a year and when they leave public service.¹⁶ The Act further designates responsible Commissioners to receive employees' asset declarations. National Assembly members, including the President report to the Parliament Ethics Committee. Civil servants report to the Public Service Commission. Judges and magistrates report to the Judicial Services Commission.¹⁷ The responsible Commission is required under the Act to retain the declaration information for thirty years (30) after the filer leaves

¹⁶ Sections 26-27 of the Act.

¹⁷ Sections 3,4 and 26 of the Act.

the public service.¹⁸ The information released to the Commissions is kept as confidential information, which can only be released to, authorized commission staff, law enforcement authorities, persons authorized by court and the persons who originally submitted the information.

According to the rules of procedure, all public officials should have filed their first declarations before September 29 2003. It is reported that all eight responsible Commissions either had already finalized their administrative procedures or were close to completing them.¹⁹ It was also reported in the same report that the Minister of Justice and Constitutional Affairs, Kiraitu Murumgu at a National Anti-Corruption Workshop held in 2003, that preparations were on track for having all public officers file their declarations by October 2003. To show the commitment with which the Government is taking this issue, it was also reported that the President Mwai Kibaki warned civil servants who have not yet declared their wealth to do so by middle November failing which they would be sacked and prosecuted. The President also added that no official was immune to the campaign against corruption, which was launched following his election to office in December 2002.

Some weaknesses that the Act has include the following:

1. The issue of the confidentiality of the declarations means that there is no public access to the declarations.
2. The Act fails to precisely state what information public officers must declare and hence some official may fail to declare their assets accurately.
3. The Act does not adequately address administrative issues to cater for review and inspection of asset declarations.
4. By requiring all public employees to declare their assets, this Act will need effective administrative measures for monitoring.

Luh (2003)²⁰ concludes that further legislation is needed to strengthen the asset declaration scheme. He says this because it is his view that the Public Officer Ethics Act as enacted fails to deliver the strong wealth-declaration scheme many citizens have hoped for. Luh (2003) however goes further to say that the Act is not so flawed that it cannot serve the purposes for more meaningful efforts. It is recommended that the responsible Commissioners should devise clear procedures for conducting reviews of high-level wealth declarations. The Ministry of Justice should issue guidelines to help public officials determine what information they should include on their declarations forms. In the longer term the National Assembly should adopt legislation to strengthen the asset declaration scheme.

¹⁸ Section 30 of the Act.

¹⁹ See Transparency International Report – Public Officer Provisions for Declarations of Income, Assets and Liabilities Evaluation and Recommendations prepared by James Luh, 31 July 2003.

²⁰ Luh James (2003) Public Officer Ethics Act provisions for declaration of Income, Assets and Liabilities Evaluation and recommendations – Transparency International-Kenya/Harvard law School.

NIGERIA

The Federal Republic of Nigeria has put in place several legislative measures to assist in the fight against corruption and in particular aimed at the establishment of codes of conduct for both the public and the private sectors. Some of the pieces of legislation that have been passed include the following:

1. The Public Officers (Investigation Of Assets) Decree Number 5 of 1966.
2. The 1979 Constitution, which provided for a Code of Conduct for public officers, a Code of Conduct Bureau for the enforcement of such prescribed behavior and a Code of Conduct Tribunal.

The Nigerian Constitution of 1999 provides for transparency, accountability and good governance. The Fifth Schedule of the Constitution provides for a Code of Conduct tribunal, which has the power to try public officials who contravene the code of conduct for public officers. The tribunal can impose punishment in such a manner that compels a guilty officer to vacate his/her office or seat in any legislative house. The tribunal has the power to seize and forfeit to the state any property acquired due to abuse of office or corruption. The same schedule specifies that:

Subject to the provision of this Constitution, every public officer shall, within three months after coming into force of this Code of Conduct or immediately after taking office and thereafter at the end of every four years and at the end of his term of office, submit to the Code of Conduct bureau a written declaration of all his properties, assets and liabilities and those of his unmarried children under the age of eighteen (18) years.

It is also worth noting that in 2001, President Obasanjo revealed that a new code of corporate governance would be introduced to facilitate the fight against corruption. It was reported that the Government would press forward in the arduous task of reducing the cost of doing business in Nigeria by accelerating the pace of infrastructural development; privatization of parastatals that have remained drain pipes on the public treasury as well as completely remove all hurdles that have impeded private participants in productive activities.²¹

UGANDA

The Constitution of Uganda provides that the Parliament shall establish a Leadership Code of Conduct for those who are in leadership positions. The Leadership Code of Conduct was adopted in 1992 and this mandates the declaration of assets on the part of high – level Government officials. The Code of Conduct provides for the following issues:

1. A requirement that specified officers declare their incomes, assets and liabilities acquired from time to time and how they acquired them or incurred them as the case may be.

²¹ See Nigerian Guardian, 10 October 2001.

2. Prohibition of conduct likely to lead to corruption in public affairs, compromise the honesty, impartiality and integrity of specified officers or which is detrimental to the public good or welfare or good governance.
3. Prescription of penalties to be imposed for breach of the Code of Conduct without prejudice to the application of criminal penalties prescribed for the breach in question.

The Inspectorate of Government or such other authority enforces the Code of Conduct as Parliament may from time to time prescribe.

SOUTH AFRICA

As stated afore, the South African Government is committed to good and clean governance. In 1998, a Moral Summit was held by religious and political leaders, which resulted in the adoption of the Code of Conduct for leadership. Furthermore, the Public Service Act 1994 empowers the Minister of Public Service and Administration to issue regulations regarding the management of matters of conduct. A Code of Conduct has been formulated in terms of the Act.

The Public Service Commission in conjunction with KPMG and Transparency International South Africa undertook an Ethics survey in 2001. The purpose of the survey was to measure the extent to which South African organizations (public service, private corporations and civil society) have succeeded in establishing certain basic ethics management practices. The results of the survey indicated that although ethics had been introduced at senior management level, they had not been integrated into existing management processes.²²

The survey in summary revealed that:

- Most respondents stated that they had a basic infrastructure such as codes of conduct and whistle blower protection in place in the organization.
- Fifty four percent (54%) indicated that their organization has a confidential reporting mechanism.
- Many organizations did not acknowledge the importance of assigning a senior level manager to have ethics responsibility for the ethics programme.
- Ethics training was too brief to be effective and was not focused on appropriate employees.
- Twenty seven percent (27%) indicated that new employees are trained in the application of the organization's code of ethics.
- Thirteen percent (13%) reported that new employees are assisted in integrating ethics into their everyday activities and many organizations had not assigned a senior manager to handle ethics programmes.

²² See Country Corruption Assessment Report – South Africa at page 89.

The results of the survey showed that most organizations have not taken practical steps to adopt effective ethics management.

The Public Service Commission developed a Code of Conduct in 1997 as a follow up to the White Paper (1994) on the transformation of the Public Service. The Public Service Commission has a role to promote the awareness of the Code of Conduct for public servants. The Public Service Commission conducted workshops in order to inform managers about the contents of the Code of Conduct and generate practical ideas for its implementation. According to surveys conducted, it was established that eighty percent (80%) of departments had implemented the Code of Conduct by taking the following measures:

- General discussion sessions, workshops and seminars.
- In-service training.
- Distribution of brochures, pamphlets, placards and newsletters.
- Conducting road shows and radio and television discussions.
- Officials signing for the receipt and acceptance of the Code of Conduct.

The explanatory Manual for the code of conduct for the public Service has five-focus areas being:

- Servicing Government.
- Serving the public.
- Professionalism and integrity.
- Conflict of interest.
- Working in the public service.

One million (1,000,000) pocket-sized booklets have been produced by the Public Service Commission for distribution to all public servants. All departments have received a directive that they should:

- Conduct training on the Explanatory Manual to enhance the spirit of ethical awareness.
- Ensure that each public servant receives his or her individual copy of the Explanatory Manual.
- Place completed forms in the employees' personnel files for record purposes.

The South African Parliament has established a joint Committee on Ethics and Members' Interest whose functions are to:

- Implement the code of conduct for members.
- Develop standards of ethical conduct.
- Serve as an advisory and consultative body and review the code of conduct.

The Joint Committee has issued a code of conduct as well as a requirement for disclosure of assets. This requires the public disclosure of shares and other financial interests. The South African management Development Institute (SAMDI) is responsible for public service training and now has a mandate to introduce ethics training for managers as part of the 2003 Presidential Strategic Leadership Development Programme. From 2001-2002, the Public Service Commission in conjunction

with the University of Pretoria has developed a training programme with focus on ethics. Senior managers attended the training programme from the Public Service, the private sector and civil society.

The measures described above that the South African Government has put in place illustrate that not only has a code of conduct put in place but, concrete measures are also being taken to ensure that it will be implemented. This deals with the problem that so often faced when it comes to codes of conduct. The strict implementation of these codes of conduct is what are always the challenge and not the drafting and putting these in place. The implementation of the code of conduct will however need to be closely monitored to ensure that the code of conduct is successful.

ALGERIA

**** Not sufficient information on this was found on Algeria.***

Algeria was involved in a survey on the implementation of the United Nations declaration Against Corruption and Bribery in International Commercial Transactions. According to this survey, it was revealed that Algeria has legislation on illicit enrichment and this legislation made illicit enrichment by public officials including elected representatives an offence. The survey indicated that according to Order No. 156-66 of June 1996, acts of illicit enrichment by public officials including those by elected representatives could be determined under various forms of criminal offences in particular treachery, transfer of public funds, abuse of power, bribery, acceptance of commissions from contracts, auctions or tenders committed at the time when the defendant was in office.

Although other government institutions have conducted anti-corruption initiatives, these reforms have been held as ineffective due to their vagueness. The Interior ministry for example, had proposed that a security institute with an anti-corruption department be established. The Finance Minister has also indicated a commitment to undertake a revision of the public procurement rules and regulations. The customs authority also introduced a new code of ethics, however this code of ethics was not publicized.

SENEGAL

****Not sufficient information on this item was found on Senegal.***

When the new Government came into power under President Abdou Diouf in 1981, the new President initiated campaigns on integrity and this included the passing of legislation to crack down on illicit wealth acquisition in order to fight corruption and public monies embezzlement. The bill also had a provision for the burden of proof to be cast on the charged individual. A special department in the police and special jurisdiction were also set up. The legislation although still in place has

proved to be ineffective up to date with very few cases actually being processed and completed.

CHAPTER 7

OVERVIEW AND ANALYSIS OF THE COMMITMENTS

Ethiopia

The Government has been reported as being fully engaged in NEPAD objectives since the Prime Minister is at the forefront in the anti-corruption initiative. There is therefore reform taking place in terms of liberalization, democratization and principles of good governance. Significant progress has been made in anti-corruption with senior government officials and executives from the private sector being brought to court over cases of corruption.

The Government has also set up mechanisms in place to familiarize the public on NEPAD. Plans are underway to make the public sector more transparent through civil service reforms.

The FEAC has been given a different mandate from the regular judicial system to prosecute cases on corruption. There is no bail for suspected corruption offenders. Hotlines to report cases on corruption have been set up and this includes systems to protect whistleblowers.

The Government has taken the stance of zero tolerance to corruption and negates any form of bribery and nepotism. The FEAC is accountable to the Prime Minister who also appoints the Commission through the approval of Parliament.

Corruption is also being tackled in the delivery services; the Customs department used to be the most corrupt government department but has now improved. Privatization has also been initiated and there is a significant drop in corrupt practices. A Committee has been established to look into the issues on procurement.

This is the Government perspective, however there are other sentiments, which tie the anti-corruption campaign to the year 2000 when two factions arose from the EPRDF leadership. One of the factions was led by the Prime Minister and the other by ex- Defence Minister Seeye Abraha.

It is reported that the Prime Minister had the upper hand, as he was able to use his executive powers to remove his opponents from power. This led to the swift enactment of anti-corruption laws leading to the arrest of Seeya Abraha, some family members and many other businesses on corruption charges.

It would seem that the anti-corruption campaign was implemented as a political tool rather than through any real commitment.

From the Government perspective however, there is indication that there was a commitment from the Government to fight corruption.

Ghana

Although the Government has made remarkable progress in addressing issues of corruption, there still remains room for improvement. On the whole, it has been noted that the level of accountability and transparency remain low in national and sub-national administration. There is also the presence of a weak civil society and very little cooperation among them. (See <http://www.worldbank.org/wbi/governance/ghana/pdf/gha>).

Some of the problems that have been identified and which hamper progress in anti-corruption initiatives include the following:

- Cynicism and lack of confidence in law enforcement agencies /authorities.
- Authorities are perceived as above the law and are not brought before the courts when they contravene the law.
- The judiciary is weak and ineffective.
- The decentralization of financial resources lacks the necessary capacity of local levels to make it effective.
- There is lack of information and the data that is available is mostly unreliable and disconnected.
- The democratic institutions are weak and ineffective.
- Procurement fraud is rampant.
- There is corruption and inefficiency in service delivery.
- There is a lack of coordinated coalitions in the anti-corruption strategy.

The general integrity of the public sector is evidenced by the general weakening of morale due to low salaries.

Furthermore this has led to general low ethical standards and appreciation for the ongoing public sector reforms. There are no strong mechanisms in place to detect corruption and punish offenders.

The media lacks access to information on the operations of Government although this might be improved by the repeal of the Criminal Libel and Seditious Libel laws. There are plans underway to enact the Freedom of Information Act to Parliament. Government officials are also restricted by the Official Secrets Acts from disclosing government information.

The prosecution of journalists has taken place in the past when they have revealed sensational stories.

In terms of coordination and supervision of government agencies, it has been reported that there is too much red tape and the valuation procedures are not consistent with international standards. The internal mechanisms remain weak as the enforcement of code of ethics is weak and the monitoring of officials is haphazard.

The Government has undertaken considerable action in addressing corruption through:

- ✓ Encouraging public participation of governance issues, grassroots level people have been included in the initiatives.
- ✓ The Public Accounts Committee has enhanced the oversight role of Parliament.
- ✓ An anti-corruption coalition, which includes government and civil society, has been formed.
- ✓ Capacity building training seminars for the media agencies have been held to enhance investigative and reporting skills.

Kenya

Some of the problems that present opportunities for corruption have been reported as the following:

- The lack of proper financial management, inadequate planning and weak accounting and audit management information systems.
- An inadequate legal framework to address corruption.
- The presence of weak public procurement systems.
- The absence of adequate operational systems for the public sector.
- The presence of ineffective and inefficient customs and revenue departments.

Some of the inherent problems encountered by the public are:

- Bribery and corruption within the police.
- Corruption in the health care system.
- Misuse of funds and corruption in schools.
- Corruption in land transactions involving the local authorities.
- Misuse of power among government officials.
- Electoral corruption.
- Corruption in seeking and getting employment.

During the reign of President Arap Moi, incidents of corruption reached alarming levels with as much as 1bn a year being lost to corruption and with the police force at the forefront of the scourge as the most corrupt institution. (SeeBBC News 30may 2003).

The Government at the time failed in tabling a new -anti-corruption Bill as well as in setting up an anti-corruption commission. The former President also blamed donors for creating a culture of corruption in Kenya. (See Reuter February 13, 2001.)

The private sector was also reported to be as corrupt as the public sector as the private sector was involved in devising strategies to evade payment of tax. There was also the sale of goods without issuance of official receipts by customers preferring cheaper prices. The cost of

corruption in the private sector therefore resulted in hindering investments, both foreign and domestic, the reduction in economic growth, restriction of trade, the weakening of the financial system and a weak economy.

In a bid to wipe out the culture of corruption and non-ethical behaviour in the public service with a view to raising productivity, the Arap Moi government initiated a public service integrity programme coordinated by the Directorate of Personnel Management (DPM) and the Anti-corruption Police Unit. (SeeBBC Monitoring Service, 27August2002).

Since coming into power, the NARC government has made the following commitments ad progress:

- ✓ The Government has constituted probe teams to investigate financial management in eight local authorities. This will lead to the extraordinary inspection of accounts and records of the authorities. (See East African Standard June2003).
- ✓ The new Government is also investigating the extent to which the extent of corruption perpetrated under President Arap Moi's government. Kenyan Minister for Planning has reported Kenya lost more than \$9bn in a decade due corruption ad mismanagement of state funds. (See Africa online, June 10,2003.).
- ✓ Cases involving corrupt judicial officers have been exposed.
- ✓ President Kibaki appointed John Githongo, the former Executive Director of Transparency International (Kenya) as the new permanent secretary of governance and ethics. John Githongo has also reaffirmed the government's commitment to fighting corruption and transparency in the management of financial information and statistics to ensure good governance. (See east Africa Standard may13 2003).
- ✓ The Ministry of Justice has received over 2000 corruption cases, the Assistant Minister had indicated that the anti-corruption unit needs to be expended and more personnel added to make it cope with the number of cases being referred to it for investigations. (See East African Standard Nairobi may1, 2003,2003).
- ✓ The Government has impounded passports belonging to directors of the collapsed Euro bank. The Attorney General told Parliament that he had also directed the Anti-corruption Police Unit to identify beneficiaries of 1,68 billion shillings deposited with the bank. (See Financial Times, March 19,2003.).
- ✓ The powers of the traffic commandant have been reduced in a major reconstruction of the department. The Police Commissioner reported that the commandant would now only deal with policy matters, public education and the administration of driving schools. He also added that the move had been taken to eradicate corruption and make the department more people-friendly. (See all Africa, February 28,2003).

Nigeria

In the early 1980s financial irregularities were noticed in the Nigeria Telecommunications headquarters when fire gutted the building leading to the destruction of records and property. There also followed other incidents of fires in Ministries and parastatals with impending financial probes.

It has been held that in Nigeria, corrupt Government officials are not punished instead they are pampered, celebrated and rewarded with chieftaincy titles and other rewards. (See www.sakiinternational.org/essay.html).

The major causes of corruption in Nigeria have since been held as the following: (*supra*)

- Poor remuneration in the civil service.
- The pervasive culture of giving.
- The absence of positive incentives from the employer.
- A weak corruption reporting system.
- Poor internal management practices.
- Wide authority in Government and little accountability.
- Ineffective anti-corruption laws.
- Previous illegitimate Governments and the inequality in social group.
- A complex and cumbersome bureaucracy.
- Personal greed /ambition,
- Lack of effective pension schemes.
- The centralization of authority and power.
- The lack of political will to deal with corruption.

Corruption in Nigeria, has led to the reduction of foreign investment, loss of government revenue resulting in the depreciation of standards to social services.

Billions of nairas were removed from Nigeria and stowed away in foreign banks or invested in foreign ventures between 1970-1982 (see *ottie.o* Presidential address on the sociological study of corruption in Nigeria: corruption in development –femi odeknuke pub-ibadan press 1982-pages 14-15).

There have also been recent revelations that show that General Sanni Abacha, embezzled \$4.3 billion from the country's coffers and the money was taken to the United Kingdom, Paris Club and Swiss banks thus leaving Nigeria in abject poverty.

The level of corruption remains a serious problem in Nigeria despite the implementation of programmes by Government to combat corruption. Several recommendations have been made in order to address the problem of corruption in Nigeria. These are:

- ✓ The decentralization of power and resources.
- ✓ More political will to fight corruption.

- ✓ The initiation of national education programmes on corruption.

Some of the problems faced by the government in fighting corruption are:

- a) Although corruption has been identified as the bane of effective implementation and consistency of government policies, the levels of corruption are still high and have impacted negatively on the policies of government. (See All Africa.com, September, 18, 2003).
- b) Former President, Shehu Shagari has also indicated that corruption was a factor that hinders free and fair elections in Nigeria. Shagari also stated that corruption was a serious national problem that can no longer be swept under the carpet, " I sincerely and firmly believe that the cankerworm that has greatly hindered the flourishing of democracy in Africa in general and in Nigeria in particular is corruption aided and abetted by the debilitating effects on poverty, ethnicity and intolerance. (See Daily Trust, July 29, 2003).
- c) In April 2003, President Olusegun Obasanjo won a second term in office. The events leading to the elections were reported as fraught with fraud and intimidation. (See the New York Times, April 2003).
- d) The Corrupt Practices Act has been amended in Parliament and strips the President of his powers to appoint financial investigators. This amendment could render obsolete the work of the ICPRC. (See Financial Times, March 14, 2003).
- e) The anti-graft campaign of President Obasanjo has received a low rating by Transparency International. TI is skeptical of how much can be achieved by the Government's campaign to fighting corruption in the country. TI has held that the top-bottom approach employed by the Government is " not effective and sustainable" (see This Day October, 22, 2001).
- f) The Chairman of the ICPRC has also recommended that six judges of the Islamic Court be sacked due to corruption and abuse of power. (See all Africa News (Pan African News Agency, May 2001).
- g) In April 2001, the Accountant General of the Federation reported to the Senate Committee on Finance and Appropriation that the number of personnel in government employ was 215000 rather than the perceived 255000. (See The Guardian, April 9, 2001).
- h) The promises made by the new democratic party under President Obasanjo to tackle corruption and a crumbling infrastructure remain unfulfilled as queues for petrol and dwindling electricity are the order of the day. It is also reported that politicians and former military leaders are siphoning of fuel to sell at a 400% mark up on the black market. (See Washington Post, March 21, 2001).
- i) The Government officials are unprepared to reduce the level of bribery and corruption and the legislators of the National Assembly have not produced effective measures to fight corruption. (See The Guardian, February 26, 2001).

Uganda

Significant problems have been encountered in the fight against corruption, these include:

- a) The wavering of the Government support and the will to fight corruption.
- b) The institutional reforms remain weak and ineffective.
- c) There is a significantly weak civil society.
- d) There is a long outstanding habit of misuse of public power at all levels for private gain.

There are significant factors that also impede the achievement of anti-corruption strategies in Uganda, as the country is 50% donor funded, furthermore Uganda can hardly be called a multi-party democracy and hence most of the policies are government initiated and hence lack the essence of an effective participatory process.

Uganda has also been ranked as the 6th most corrupt country in the world according to the most recent Transparency International index. Because of ineffective systems this has also led to the collapse of a lucrative industry, the coffee market.

There have been reforms in Uganda's tax authority and a 3-month probe was conducted and this has resulted in major improvements in collecting revenue. In the years 2000-2001, tax collection fell to 11.35 of gross domestic product. (See [http:// news.bbc.co.uk/1hi/business](http://news.bbc.co.uk/1/hi/business)). Furthermore, the Uganda Revenue Authority staff is required to declare their assets and interests as well as those of close relatives. There are also similar probes into the police force and defence forces.

Donors and civil society organizations have declared that corruption is endemic in the Ugandan Government from the top right down to the local administrative levels. (See Integrated Regional Information Networks May, 15, 2002).

It was also reported that in Ugandan society, corruption is pervasive, institutionalized and on the increase as Uganda continues to rank amongst the most corrupt countries in international indices.

In spite of discouraging results on the level of corruption, the Auditor – General has exposed the evidence of corruption when the office reported that the Busia district had excess expenditure and that Shs 18 million was used to pay for undelivered or poor quality desks, and for other shoddy work. (See Monitor, May 14, 2003).

The Ethics and Integrity Minister, Miriam Matembe said that the high level of corruption in the country is leading Uganda into bigger economic trouble. (See All Africa, January 2003).

There has also been a statement from the IGG that Ugandans who obtain money corruptly will no longer be able to hide it in the United Kingdom as the British Government will assist in tracing money or property. (See New Vision Kampala, May 9, 2002).

The anti-corruption strategy which is led by Government still has considerable room for improvement as there are several issues to address which include the procurement handling bodies which are losing funds due to lack of integrity, weak procurement policies and laxity of the procurement personnel. (See All Africa news, New Vision, May 18, 2001.).

The Uganda Electricity Board has been declared the most corrupt as it was recorded as 100% corrupt., the Uganda Revenue Authority Board was reported as 91% corrupt, the telephone services was 83% corrupt, whilst the police was 63 % corrupt and the judiciary 50% corrupt.(see All Africa .com. May 8, 2001).

South Africa

South Africa has a progressive anti-corruption strategy that is comparable to other leading international anti-corruption practices. The presence of a strong political commitment to corruption has meant that anti-corruption strategies have improved since 1994. South Africa also has effective legislative, regulatory and institutional framework to address corruption. South Africa has embarked on reforms to counter corruption and these reforms include the following measures: (see Country Assessment Report-April, 2003).

- ✓ The initiation and implementation of good management practices.
- ✓ The introduction of codes of conduct.
- ✓ The structuring of modern employment practices.
- ✓ The introduction of financial disclosures.
- ✓ The promotion of fair procurement practices.
- ✓ The implementation of effective systems that allow for transparency and accountability.

The South African anti-corruption strategy still needs to be improved upon despite the major inroads in addressing corruption. Some of the problems encountered in fighting corruption are:

- The lack of sufficient resources to address corruption.
- The fragmentation of the legislative framework to address corruption.
- The presence of inefficient and ineffective institutions that have the mandate to address issues of corruption.
- Lack of coherent programmes that focus on corruption and its effects.
- Inefficient internal systems that derail the process of transparency and accountability.

- Underdevelopment and weak management systems in some areas.

Proposals have been made in order to improve on the capacity of the State to fight corruption, these are: (see Country Assessment Report, April 2003).

- The review and consolidation of the legislative framework, which provides for a workable definition of corruption, reinstates the common law of bribery, the creation of the presumption of prima facie proof to facilitate prosecution, and extends the scope of the Act to all public officials and private citizens and their agents.
- The improvement of institutional capacity to fight corruption in the courts, existing institutions and departments.
- The improvement of access to report wrongdoing and the protection of whistle blowers and witnesses.
- That mechanisms be put in place to prohibit corrupt employees from employment in the public sector and corrupt businesses and agents of such businesses from doing business with the Public Service.
- The improvement of management policies and practices.
- The development of the generic professional ethics statement for the Public Service and the introduction of sector-specific codes of conduct and ethics.
- The integration of an effective coalition against corruption, which involves the public sector, the business sector, and civil society.
- The conducting of social analysis, research and policy advocacy in order to analyze the trends, causes and impact of corruption and to advocate preventive measures.
- Raising awareness, training and education in issues of corruption.

TABLE SHOWING A SUMMARY OF ANTI-CORRUPTION AGENCIES AND ANTI-CORRUPTION LAWS IN RESPECTIVE COUNTRIES

COUNTRY	ANTI-CORRUPTION AGENCY	ANTI- CORRUPTION LEGISLATION
Ethiopia	The Federal Ethics and Anti-corruption Commission (FEACC)	1.Proclamation 235/1993 2.Proclamation 235/2001. 3. Proclamation 236/2001.
South Africa	1.The Directorate of Special Operations (DSO). (National Prosecuting Authority) 2. The Scorpions 3. Public Service Commission 4. Office of the Public Protector 5. Office of the Auditor –General 6. South African Anti-corruption Unit. 7. The Health Special investigative Unit. 8. The Directorate of Public Prosecutions. 9. South African Revenue Service anti-corruption unit. 10. Special investigation Unit.	1. Prevention of Corruption Act 1992. 2. Public Finance Management Act. 3. Audit General Act. 4. Public service Act. 5. The Promotion of Access to Information Act. 6.National Prosecution Authority Act, 1998. 7. Special Investigating Units and Special Tribunals Act, 1996. 8.The Commissions Act 9. The Criminal Procedure and Evidence Act. 10. The Protected Disclosures Act. 11. Witness protection Act.
Ghana	1. Office of Accountability 2. Serious Fraud Office 3. Securities Regulatory Commission	1. Local Government Act 2. Civil Service Law Act, 1993. 3. National Development Planning System Law, 1994. 4. Serious Fraud Office Act, 1993. 5. Public Office Holders (Declaration of Assets and Disqualifications) Act, 1998.
Kenya	Kenya Anti-corruption Commission	1. Anti-corruption and Economic Crimes Act, 2003. 2. Public Officers Ethics Act, 2003.

Nigeria	Independent Corrupt Practices and other Related Offences Commission	<ol style="list-style-type: none"> 1. Public Officers (Investigation of Assets (Decree), 1966. 2. Corrupt Practices Decree, 1975. 3. 1979 Constitution. 4. National Drug Law Enforcement Agency Act, 1990. 5. The Indiscipline Corrupt Practices and Economic Crime (Prohibition) Decree, 1994. 6. Money-laundering Act, 1995. 7. Advance Fee fraud Act, 1995. 8. Failed Bank Act, 1996. 9. Banks and other Financial Institutions Act, 1991 10. Foreign Exchange (Miscellaneous Act, 1995. 11. The Corrupt Practices and Other Related Offences Act, 2000.
Uganda	<ol style="list-style-type: none"> 1. Inspector General of Government. (IGG) 2. Directorate of Ethics and Integrity (DEI) 3. Office of Public Prosecution. 	<ol style="list-style-type: none"> 1. Constitution 2. The Prevention of Corruption Act 1970. 3. The Penal Code 1964. 4. Magistrates Court Act. 5. The Leadership Code 1992. 6. The Trial of Indictments Act 7. The Local Government Act, 1997
Senegal		
Algeria		