

## **CORRUPTION METHODOLOGY**

### **BACKGROUND**

The Human Security Initiative was launched on the 5<sup>th</sup> September 2003 in Pretoria when the Institute of Security Studies selected NGOs to participate in the initiative and to the launch of the project. The initiative comprises a core network of 7 established African NGOs (SAHRIT is included) to embark upon a process of benchmarking the performance of key African governments.

This is a one-year pilot project which aims at African civil society building a monitoring network to engage in reviewing the extent to which African governments and leaders honour their commitments to selected political governance and human rights standards.

It was proposed initially that 15 countries that have acceded to the African peer review mechanism would be monitored. However at the meeting the participants decided to cut down the number to 8 countries and the countries are: Algeria, Senegal, Nigeria, Ghana, Uganda, Ethiopia, Kenya and South Africa.

Corruption is referred to in numerous OAU and recently, AU documents. The area under focus covers explicit provisions on corruption and related matters.

The long-term objective of this programme is to eradicate poverty in Africa and to place African countries on a path of sustainable growth and development.

In conducting the research the anti-corruption cluster will refer to these factors and will regard them as thematic, this is on the understanding the cluster centers on the anti-corruption mechanisms. Taking this stance, the mechanisms being dealt therefore are inter-governmental and as such civil society has a role to play in holding Heads of State accountable to their own decisions.

In consultations amongst Heads of States, corruption has been featured as a negative factor to economic, social and cultural rights and development.

### **PRIMARY SOURCES**

The primary sources of materials on anti-corruption will be the Draft AU Convention on Corruption and other related offences, which was approved by the Ministers in September 2002 in Addis Ababa and was on the AU Summit agenda in Maputo in July 2003. Furthermore the NEPAD agreement whose key priorities on corruption are on eradication of poverty through sustainable growth and development through supporting human rights, upholding the rule of law and good governance.

The following documents will also constitute as source of materials:

- ❑ The Conference on Security, Stability, Development (CSSDSA) Solemn (2000).
- ❑ The Constitutive Act of the African Union.

The research will therefore focus on:

- Identifying strategic issues.
- Examining past decisions and commitments.
- Assessing the progress made on commitments and decisions.

The areas of focus have been divided into clusters or themes and each cluster will identify 5-10 benchmarks, which relate to key commitments that African leaders have made at the level of head of State. Each cluster will research and report on its theme on the extent to which commitments are matched by action. The theme for SAHRIT is anti-corruption.

Research and consultations will be focused on the national level, in other words this will entail finding out what each of the 8 selected governments has done to implement anti-corruption commitments. Interviews will thus be conducted with government officials and researchers in each country to gather information on anti-corruption developments or otherwise.

Each cluster is expected to produce a 30000-word research report to be published as a monograph in English and a 7000 executive summary (to be published in English and French) as two separate papers. A progress report will be submitted to ISS before the 7<sup>th</sup> December 2003.

## **TARGET COUNTRIES**

The research will target the 8 countries that have acceded to African Peer Review Mechanism (APRM). The APRM is a creation of these Heads of States for the sharing of experiences, promoting human rights and good governance and successful development policies. The countries are Algeria, Ethiopia, Ghana, Kenya, Nigeria, Senegal, South Africa and Uganda.

## **THE EFFECT AND CONSEQUENCES OF CORRUPTION ON HUMAN SECURITY**

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

Corruption has been defined as the abuse of official position for private gain. <sup>(1 Corruption and development in Africa 1997 – GCA Policy Document)</sup>

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 \$1,4 billion ended up costing \$4 billion due to inefficiencies in the system. Furthermore, in Uganda 42,000 “ ghost workers” contributed to the civil service wage –bill. <sup>(2See Policy Forum Document–</sup>  
Corruption and Development in Africa / [http. www.gc. -cma.org](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.<sup>3</sup>  
(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; it also discourages investment leading to lack of resources, which results in the inefficient use of revenue.

Corruption is tied up 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 is 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 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 cases 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 programme in 1986. In spite of the considerable efforts made by the Government to combat corruption, corruption is still viewed as a significant problem in Uganda.

## **CORRUPTION AND HUMAN SECURITY**

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. Human

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.

## **BENCHMARK AREAS**

### **The AU Constitutive Act**

The Constitutive Act of the AU has as one of its principles the respect for democratic principles, human rights, the rule of law and good governance.

### **The AU Convention on Corruption and Related Offences**

The AU Convention on Corruption 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 New Partnership to Africa's Development (NEPAD)**

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

- ❑ Development of clear standards of accountability, transparency and participatory governance at national and sub-national levels.
- ❑ Introducing appropriate institutional frameworks to achieve macroeconomic stability.

- ❑ Instituting transparent legal and regulatory frameworks for the private and public sector.
  
- ❑ Capacity building in anti-corruption.

## **METHODOLOGY FOR THE RESEARCH**

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 to fight corruption?
  
4. Are matters of transparency and accountability in 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 table below provides the indicators, which will be used to assess commitments made States.

COMMITMENTS	INDICATORS	MOTIVIATION	PROBLEMS
Adopting measures in place to combat corruption	<p>Is there demonstration by the States that the political will exists to combat corruption?</p> <ol style="list-style-type: none"> <li>1. Enactment and enforcement of criminal laws, which deal effectively with corruption.</li> <li>2. Adoption of legislative mechanisms and procedures for the public to submit complaints of corruption, including the protection of witnesses and whistle-blowers.</li> <li>3. The ratification of the AU Convention on Corruption</li> </ol>	<p>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 of expounds on these principles through its objectives.</p>	<p>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.</p>
Public accountability and participation	<ol style="list-style-type: none"> <li>1. Facilitation of the involvement and participation of civil society, to take part in the formulation and monitoring of anti-corruption strategies.</li> <li>2. Guarantee the public's right to information about corruption and corrupt activities through the protection of freedom of press.</li> <li>3. Publishing details of companies found to have engaged in corrupt practices.</li> </ol>	<p>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 media in its action plans and that there is access to information in cases of corruption.</p>	<p>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.</p>

<p>Creation and strengthening of oversight institutions to fight corruption</p>	<ol style="list-style-type: none"> <li>1. Ensure that anti-corruption agencies are autonomous, independent and governed by good law.</li> <li>2. Establishment of other oversight institutions e.g. Inspector General / Auditor-General</li> <li>3. Restoration and maintenance of an independent judiciary including effective Parliamentary oversight</li> </ol>	<p>Article 20 of the AU Convention on corruption provides for designation of a national authority, which deals with anti-corruption. The national authority or agency shall be allowed necessary independence and autonomy to be able to carry out their duties effectively</p>	<p>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 is true independence.</p>
<p>Transparency and accountability in Government and private systems</p>	<ol style="list-style-type: none"> <li>1. Establishment of budgetary and financial transparency and strong financial management systems.</li> <li>2. Promote transparency in procedures for public procurement and tender procedures.</li> <li>3. Require companies and organizations to maintain adequate and accurate financial records.</li> <li>4. Promote standards for corporate governance.</li> <li>5. Prohibition of companies found guilty of corruption from bidding on public contracts.</li> </ol>	<p>Article 7 of the AU 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.</p>	<p>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 any signs of visible improvement. This requires an initiative from civil society and media to monitor their progress.</p>
<p>Administrative and civil service reforms</p>	<ol style="list-style-type: none"> <li>1. Simplification of government systems and procedures.</li> <li>2. Establishment of merit-based recruitment with adequate remuneration for employees.</li> <li>3. Establishment of effective revenue collection systems.</li> </ol>	<p>Article 7(1) requires all or designated public officials to declare their assets whilst in the public service.</p>	<p>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.</p>

Adoption of appropriate standards and codes of good practice	<ol style="list-style-type: none"> <li>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.</li> <li>2. Establishment and enforcement of self regulating codes of conduct for different professions including the private sector</li> </ol>	Article 7(2) requires State Parties to commit themselves to creating an internal committee or similar body mandated to establish a code of conduct and to monitor implementation.	Codes of conduct are good measures but may fail in effectiveness if the implementation process is not monitored. Codes of Conduct also require strict enforcement, which demands strict adherence by all.
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## WORKPLAN

Date	Activity	Result
August- October 2003	<ol style="list-style-type: none"> <li>1. Communication with relevant contacts in the countries (includes embassies and other experts in the area) under review to provide information articulated in the methodology.</li> <li>2. Research using other sources that include internet, reports and publications.</li> <li>3. Compilation and collection of data.</li> <li>4. Desk top and consultative research</li> </ol>	The gathered information will form the basis for research analysis in the second phase. Collection of data will however be an ongoing process although the major part of data collection will be done during this phase.
November- December 2003	<ol style="list-style-type: none"> <li>1. Desktop and consultative research.</li> <li>2. Initial preparations for the draft report</li> </ol>	Submission of a one page progress report to ISS
January – February 2004	<ol style="list-style-type: none"> <li>1. Finalization of draft report</li> <li>2. Organization of a dissemination seminar</li> <li>3. Submission of a draft report</li> </ol>	Dissemination of preliminary findings
March 2004	Submission of final report and key findings	Completion of research component of the project