



SECTION 5

Report-backs from Commission Sessions

INTRODUCTION

The reports from the Commissions were combined i.e. Commissions 1 and 2, Commissions 3 and 4 and Commissions 5 and 6 and consolidated into one report each. These reports were jointly presented by the Rapporteurs of the Commissions to the plenary session.

Commissions 1 and 2 dealt with Ethics and Prevention of Corruption. The concern in these two commissions was on how to influence organizational culture in order to encourage ethical behaviour. Some of the salient points which emerged from the commissions include the need for clear ethical leadership within organizations, the integration of the observance of codes of conduct into the key performance indicators of employees and the development of early-warning signals against corruption.

Commissions 3 and 4 were concerned with the Combating of Corruption. Some of the key issues which emanated from these two commissions include the development of a simple definition of corruption for ordinary people to understand, the adequate resourcing of the commercial crime units of the SAPS, the reporting of the successful prosecution of corruption and the general strengthening of the resources and mandates of anti-corruption agencies.

Commissions 5 and 6 were concerned with Transparency, Oversight and Accountability. Some of the issues which emerged are that the recommendations of SCOPA should be properly monitored to ensure effective implementation, declarations of interest within government and there should be more rigorous interrogation of departmental reports by Portfolio Committees.

17.1 COMMISSIONS 1 and 2 : ETHICS AND PREVENTION OF CORRUPTION (RAPPORTEURS : MS LORINDA NEL⁴⁷ AND MR JOHN MAFUNISA).⁴⁸

Culture is about the way things are done. Rules influence but do not change a culture. Values are about ongoing choices made day-by-day on how a person wants to live his/her life. Compliance does not necessarily mean “buy-in”. A law or a programme is not a culture, nor does it become engrained in an individual who has different values.

The following issues have been identified as issues that need to be addressed in order to drive the issue of culture into organizations, government and society:

⁴⁷ Ms Lorinda Nel is with Business Against Crime (BAC).

⁴⁸ John Mafunisa is with the Human Sciences Research Council (HSRC).

- Clear leadership needs to be provided for. It is said that: “a fish rots from the head down”. If a company or organization is corrupt at the top, it is guaranteed that the bottom end thereof will also be corrupted.
- Staff need to be in an environment in which they feel comfortable and protected. When that is the case corruption would be less prevalent.
- All companies and organizations need to adopt codes of ethics to spell out exactly what is expected of them. There needs to be a clear distinction between the fact that people are free to lead their private lives as they wish. This need to be balanced with the fact that within a working environment, certain sets of rules and regulations ought to exist that would manage a person’s behaviour and how he/she acts and what he/she does.
- Training in policy procedures need to be offered by all organizations. Pre-training in the enforcement of rules and regulations is highly essential.
- Ethical codes of conduct must be integrated into the key performance indicators of employees. Employees need to know exactly what is expected of them, how they are supposed to act and, should they be guilty of wrongdoing they should be disciplined.
- A culture of transparency ought to be facilitated. Responsible media broadcasting is extremely important because if one sends out distorted messages it could create a feeling of uneasiness in communities.
- The private, public and civil society sectors need to act collectively in the fight against corruption.
- Members of the public need to know why certain pieces of legislation are in place. If they understand the “why”, the “how” will follow automatically. Legislation may also lead to uncertainty as many pieces of legislation are not properly disseminated.
- Regarding individual company or government organizational issues, the matter of early-warning signs is extremely important. A structure within which early-warning signs (red flag) could be picked up must be provided for. Such signals will differ from company to company. It is very important that leaders and managers are trained in these early-warning signals and recognize them in their respective areas of competencies.
- Internal audits are important too. Internal audits are much wider than only the finances of a company or a department. Audits will give an indication of very long telephone conversations, no lunch hours, or too many lunch hours, no leave, etc. There are reasons for these and it could serve as indicators that something is

wrong with an employee. External audits would function more on the finances of a company.

- Finally, it is recommended that a communication structure be brought to life that could deal specifically with policy procedures and to integrate prevention capacities, to align ethics training and to share different protocols.

17.2 COMMISSIONS 3 and 4 : COMBATING CORRUPTION (RAPPORTEURS : MS KOKO MOKGALONG⁴⁹ AND MS KAREN BORCHER⁵⁰)

The proposals of Commissions 3 and 4 are as follows:

- Information-sharing and research should be broadened within the tri-partite sectors. Co-operation within the different sectors would be needed, especially on issues that deal with anti-corruption. These ties need to be strengthened to tap into specific resources.
- There is a need for a paradigm shift in terms of conceptualizing the concept of corruption. This means that corruption needs to be clearly defined because people understand corruption in different ways.
- The introduction of a code of ethics for professional bodies is mandatory.
- There needs to be concerted media campaigns to manage perceptions pertaining to the reality of combating corruption.
- Commercial crime units need to be adequately resourced and made accessible to the public. They also need to report on their conviction rates. People need to know their success rates.
- There is a need for the creation of a common database for blacklisting across all sectors.
- The Secretariat of the NACF needs to be strengthened. It needs to be adequately resourced and also be given powers to convene at least once a quarter to call for reports from all the various sectors and to engage in co-ordinated and joint sectoral programmes.
- There is a need for the standardization of documents by departments as well as provision for the electronic verification of documents in order to avoid presentation of fraudulent documents, especially with regard to tender processes.
- There is a need to simplify legislation. The introduction of legislation needs to be

⁴⁹ Ms Koko Mokgalong is a Commissioner with the Public Service Commission (PSC).

⁵⁰ Ms Karen Borchler is with Business Against Crime (BAC).

accompanied by simple guidelines.

- Existing legislation must be enforced in a systematic manner rather than revising it.
- Prosecution in terms of cases of corruption needs to be reported on.
- Regarding investigations, prosecutions and adjudications - all the relevant agencies need to be strengthened and their mandates need to be clearly defined.
- Best practice from regional and international agencies should be used as resources.
- There is a need for a transfer of appropriate skills into anti-corruption agencies.
- Departments and the public should be made aware of the different investigating and anti-corruption units. They should be advised on the different mandates of such units in order to enhance clarity on where to report cases of corruption.
- Whistleblowers need to be afforded more and better protection.

17.3 COMMISSIONS 5 and 6 : TRANSPARENCY, OVERSIGHT AND ACCOUNTABILITY (RAPPORTEURS): DR M. S. RAMAITE⁵¹ AND DR NORMAN MAHARAJ⁵²

There is agreement that corruption is an obstacle to development. None of the sectors or parties represented at the Summit have a stake in defending corruption or corrupt activities within any of the sectors. That is a statement of fact. The delegates must heed the call by the President when he enjoins everybody to unite in the fight against corruption. The amount of progress that has been made in this fight needs to be commended and acknowledge.

The proposal of Commissions 5 and 6 are:

- The delegates must take care that in the effort to expose corruption that it is done from a properly informed position on the basis of evidence, thereby not hindering the cause of sincere efforts in this very difficult arena.
- Efforts should be focused on restoring confidence in the organs that were established to fight corruption. Specifically, financial management and control within government departments need to be strengthened in order to effectively track incidents of corruption.
- The oversight functions of parliamentary structures at provincial and national levels

⁵¹ Dr Silas Ramaite is Deputy Director of Public Prosecutions: National Prosecuting Authority.

⁵² Dr Norman Maharaj is a Commissioner with the Public Service Commission.

should be strengthened, including the oversight role of the Executive and the Judiciary and there should be a greater interrogation of reports by Portfolio Committees.

- SCOPA recommendations should be properly monitored to ensure effective implementation.
- The expectation gaps with regard to the roles and functions of the various anti-corruption organs should be clarified through better communication and in so doing, create a better understanding of the areas of focus, emphasis and limitations.
- The improved functionality of the NACF should be addressed by the NACF with specific consideration in terms of drawing in other structures.
- Declarations of financial interests and issues of conflicts of interest should be better managed and all government officials should declare financial interests in any companies doing business with government.
- The very basics of internal financial control and minimum anti-corruption capacity should be established in all government departments.
- Appropriate legislation are in place, but there should be better emphasis on the enforcement of such legislation, for example, there should be an enforced Code of Conduct for all employees.
- Empowerment of civil society in the fight against corruption should be seriously looked at.
- There should be co-ordination and collaboration between the Public Protector, the Attorney General and the Public Service Commission on the promotion of whistleblowing. There should be a South African or a national anti-corruption strategy as opposed to just a public sector anti-corruption strategy which would address very specifically the lack of accountability structures both within the private and civil society sectors as well.