

**CORRUPTION AND THE DEVELOPMENT OF ORGANIZATIONAL ETHIC SINCE  
THE 1996 CONSTITUTION**

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## ABSTRACT

### **CORRUPTION AND THE DEVELOPMENT OF ORGANIZATIONAL ETHIC SINCE THE 1996 CONSTITUTION**

The issue of corruption in Sub-Saharan Africa is a complex one. Often, bribery and corruption become economic factors when they function as mechanisms to shift the costs of public service away from the taxpayer and toward those who benefit directly from the provision of services. However, the question will always remain: to what extent will such practises contribute to achieving, maintaining and enhancing the general welfare of society? To that end, corruption is being targeted by the World Bank as a developmental issue.

The Corruption Perceptions Index from Transparency International, a Berlin-based NGO, in their 2002 report, provided statistics in respect of 102 countries, showing that on a scale of 1 to 10, 70 (68%) of those countries listed scored under 5 (most corrupt) of the survey. Of the 70 countries on the list that scored under 5, 21 are from Africa, while 9 of those countries in the lower half of the scale are from Sub-Saharan Africa, including South Africa, which scored 4.8.

It is generally accepted that anti-corruption surveys and workshops can provide useful information regarding degrees and levels of corruption in various countries. The availability of informants conveying information regarding corruption is identified as a critical component of investigations into the reasons for and extent of corruption in given countries.

The necessity for anti-corruption legislation to be promulgated and actively implemented is seen as an imperative for third world growth and development.

Section 195 (1)(a) of the Constitution of the Republic of South Africa Act 108 of 1996 dealing with basic values and principles governing public administration states that:

“ . . . a high standard of professional ethics must be promoted and maintained . . . “.

Paragraph (2) of section 195 of the Constitution states that:

“ . . . the above principles apply to -

(a) administration in every sphere of government;

(b) organs of state: and

(c) public enterprises . . . “.

Section 195 (3) states that:

“ . . . national legislation must ensure the promotion of the values and principles listed in sub-section 1 . . . “.

In terms of the above, the basic policy governing ethical public administration in South Africa is clearly expounded in the 1996 Constitution, with concomitant reference to other subordinate national legislation (Section 195 (3)).

In order to ensure that the requirements of the Constitution pertaining to public administration are met, it is imperative that the community needs to become better informed and better organised to hold the government to higher standards of service delivery, transparency and accountability, which include an ownership-demonstrated political will via accountable politicians and public officials to implement and enforce anti-corruption measures.

Various measures have been put in place since the 1996 Constitution to deter corruptive practices. Among those are the drafting of codes of conduct, various initiatives, such as whistle-blowing, training initiatives and short courses to make public officials aware of the need for ethical conduct whilst dealing with public monies and public affairs.

## 1. INTRODUCTION

There is nothing new about corruption, it has been around for a long time. As far back as 300 BC, Katilya, the then Prime Minister and Emperor Chandragupta of India, identified forty ways of embezzlement of funds by employees in the private sector and he had this to say about Government officials:

" . . . Just as it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue, so it is impossible for a Government servant not to eat up at least a bit of the King's revenue . . . “.

Corruption is an increasingly important clandestine driving force in South Africa, and it is beginning to seriously undermine the faith of the citizens in the very foundations and fabric of society; in particular the market economy system, which is supposed to be free and fair. Democracy, in terms of which society expects to be ruled by a just and equalitarian Government are being questioned as well as the rule of law over power implemented by a independent, corruptless and fair judicial system.

Evidence of corrupt practices is easily found. Ghost employees in the government service, fraud in the hospitals and school meals schemes, unauthorised use of credit cards by officials, all manner of corruption in the police force, leaking of examination papers, issue of fraudulent university degrees and identity documents, electoral fraud, false subsistence and transport claims by members of Parliament and medical doctors, “kickbacks” in tender procedures, pension payments to individuals under the age of 60 and/or to dead people, demanding and accepting payment for submission of applications for employment with no guarantee of success and the list goes on.

In addition to media evidence and information from courts, official and unofficial reports suggest that corruption in South African society is not a matter of individual, exceptional modes of behavior, but a common practice, affecting many sectors of public activity. Unfortunately, despite available evidence, corruption is substantially less visible than many other types of crime and this is perhaps the reason why it has not been attacked with the appropriate vigor. Corruption is a consensual crime in the

sense that all participants are usually willing parties who together have an interest in concealing it. There are therefore fewer conscious victims and witnesses to it.

One theory is that the origin of the current scale of corruption in South Africa is the sanctions placed upon the country by the rest of the world during the apartheid years, as a result of which the Government and many business firms had to be corrupt to achieve given objectives.

A point to consider is that corrupt dealings are by nature secretive. Few crimes are harder to prove. It is hard to detect and less susceptible to reactive policing. It is difficult to investigate as it is often subtle and perpetrated by cunning people who know the system. A national strategy for ethics and anti-corruption led from the top echelons of the Government needs to be urgently developed in South Africa. This strategy should be both educational and regulatory and adopt a multi-faceted approach that investigates, punishes and deters the corrupt, and educates and assists everyone to resist corruption. The development of a national strategy against corruption is a goal that must be actively pursued.

In the sections that follow, examples of reports by various institutions on corruption in South Africa will be provided, followed by a description of the development of organizational ethic in South Africa since the 1996 Constitution, which includes reference to anti-corruption efforts, legislative and administrative measures and, finally, the role of the Public Protector is explained. A number of concluding remarks are provided at the end of the paper.

## **2. REPORTS ON CORRUPTION IN SOUTH AFRICA**

The following key statistics have been published by the Commission for Public Service Innovation (CD. 2003. "Innovative public services for sustainable growth and development in South Africa"):

In South Africa, 30% of the potentially economically active population are unemployed.

Twenty percent (20%) of households earn less than R800 (\$130) per month - in some provinces, notably the Free State and the Eastern Cape, the figure is as high as 46%.

From 2002 to 2003, crime incidents totalled 2.7 million or 6000 crimes per 100,000 people per annum.

Only 1.8% of Black-African households own a computer - limiting access to technology and information.

Corruption in the government service is the major concern among foreign investors. According to the Commission for Public Service Innovation (CD. 2003. "Innovative public services for sustainable growth and development in South Africa"), a survey of 69 countries ranked corruption as the single largest obstacle to doing business with South Africa. The State President has now prioritised efforts to eradicate corruption.

Various bodies in South Africa concern themselves with the issue of corruption. The public media and in particular the popular press regularly report on corrupt practices in government departments (agencies) throughout the nine provinces of South Africa. Other bodies, some statutory, others not, act as watchdogs to report on the unethical behavior of public functionaries, which include officials and politicians. Among these are the press, the Auditor-General, the Public Service Accountability Monitor, which incorporates the Eastern Cape Public Service Accountability Monitor, the KwaZulu-Natal Provincial Internal Audit Unit, as well as a prominent consulting firm specialising in anti-corruption measures, Heath Public Service Consultants. Examples of reports by these bodies will be briefly expounded in the paragraphs that follow.

## **2.1 The Press**

In a recent report, a Sunday newspaper (see reference below) has reported on a book published by the Public Service Accountability Monitor (PSAM), which, inter

alia, expounds on the reasons for the health care crisis in the Eastern Cape Province as follows:

“ . . . The way the Eastern Cape provincial government spent its health budget has significantly contributed to the public health care crisis in the province, demonstrated in a recently launched book. The book, produced by the Public Service Accountability Monitor (PSAM), was launched during the People's Health Summit in East London.

Key findings include:

That over 81% of the provincial health department's R25.2-billion budget from 1996 to 2003 was not properly accounted for. This amount (R20.6-billion) was issued with audit disclaimers by the Auditor-General.

That over R283-million (19%) of the infrastructure budget between 1999 and 2004 was unspent. This money should have gone towards maintenance of hospitals, clinics and health centres in the province.

That between 2000 and 2003 the department failed to spend 27% of its HIV-Aids budget (R33-million) - and of the spent funds, R90-million was unaccounted for.

The study was prompted by an increasing number of reports of health care-related problems by politicians and the media.

These included overcrowded hospital wards, the dilapidation of infrastructure, food shortages, broken-down ambulances, and neglected state mortuaries.

The book is based largely on an evaluation of internal financial reporting documents, which PSAM obtained from the provincial health department only after recourse to the Promotion of Access to Information Act.

The book is titled "The Crisis of Public Health Care in the Eastern Cape - The Post-Apartheid Challenges of Oversight and Accountability," and it is predicted to be an invaluable tool for analysts, and those with an interest in the public health sphere.

The book was not commissioned by the department, but a copy had been sent to the Eastern Cape Premier and the province's health MEC (Member of the Executive Committee).

The Public Service Accountability Monitor is an independent monitoring and research organisation based at Rhodes University, Grahamstown, South Africa. It monitors the way government departments manage their resources, whether or not they provide effective service delivery, and the accountability of politicians and officials who run these departments . . . “

(Internet reference: [http://www.journ\\_aids.org/reports/20040703c.htm](http://www.journ_aids.org/reports/20040703c.htm). Eastern Cape Government to blame for health crisis. Sunday Times. 3 July 2004).

The above is an example of press reports that appear regularly about various issues pertaining to corruption in South Africa.

## **2.2 Auditor-General**

Examples of reports by the Auditor-General (A-G), as the general watchdog of the government over administrative practices of government departments (agencies) are provided in the paragraphs that follow. Annual A-G reports on two departments are provided as examples: first, the Department of Defence and second, SAMDI (South African Management and Development Institute), which is the official training division of the public service.

## 2.2.1 Department of Defence (DoD)

### 2003 - 2004 Auditor-General Report

#### REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2004

” . . . Information and explanations for non-compliance and disclosure discrepancies could not be obtained.

#### \* Accruals

Accruals represented goods/services that had been delivered but no invoice had been received from the supplier at year-end, or an invoice had been received but remained unpaid at year-end. Accruals, disclosed as R3,873 million in note 26 to the financial statements, only represented goods/services that had been delivered and for which invoices had been received, but the amount remained unpaid at year-end. The amount did not include goods/services received during the year for which no invoices had been received at year-end. This information cannot be generated from the accounting systems of the DOD. Accordingly, the amount disclosed as accruals is understated by an unknown amount.

Various loss files could not be submitted for audit purposes.

The accuracy and completeness of the amount of R18,5 million for irregularities and losses, as disclosed in note 11.3 to the financial statements, could not be verified.

The security and general administration over vehicles were found to be lacking. This could mainly be ascribed to the fact that policies and procedures were not adequately applied and/or adhered to, resulting in the following:

- \* Unauthorised trips were undertaken. Material differences existed between the physical number of vehicles on hand and those reflected in the stock ledger.

- \* Vehicles were allowed to deteriorate to such an extent that they were beyond economical repair, mainly as a result of irregular servicing.
  
- \* In certain cases vehicles that were sent for repairs were not serviced on time and vehicles were stripped of their parts, causing further delays due to budget constraints.

An information systems audit conducted on the general controls surrounding the Computer Aided Logistic Management Information Systems (CALMIS) and the Operational Support Information System (OSIS) revealed that the activities of the database administrators were not logged and monitored.

This is a significant weakness as these administrators have the highest privilege available on the databases and also perform the incompatible system administrator functions. This weakness potentially allowed the databases to be changed without any record being kept of the changes. Such changes could then only be detected if the data were to be compared to source documents. No confirmation that this function was performed could be obtained. In addition, a number of accounts on the CALMIS Unix servers did not have passwords.

Based on the above, no reliance could be placed on the general controls surrounding CALMIS for the regularity audit and more extensive substantive testing had to be performed in order to obtain a higher audit assurance. The audit also indicated that limited progress had been made in addressing previously identified issues . . . “.

Clearly, the report of the A-G shows serious shortcomings in the financial management of the Department of Defence, which need to be addressed on a priority basis.

## **2.2.2 SAMDI (South African Management and Development Institute)**

### **REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF VOTE 12 – SOUTH AFRICAN MANAGEMENT DEVELOPMENT INSTITUTE FOR THE YEAR ENDED 31 MARCH 2003**

The report highlights a number of issues among which salient examples are:

“ . . . The European Commission is furthermore currently investigating missing documentation relating to payments of R5 million since the commencement of the financial agreement until 31 December 2002. The outcome of this investigation will be reported on in the next financial year’s management report.

As no framework for the allocation of expenditure existed no alternative audit procedures could be performed.

The A-G was not able to verify the completeness and accuracy of the expenditure as accounted for in the financial statements.

The amount owed by the Trading Account to SAMDI is reflected in SAMDI’s financial statements, Note 19, as R 1 817 095 whilst the Trading Account is reflecting an amount of R 2 186 658. The difference of R 369 563 could not be verified . . . “.

The report of the A-G shows serious shortcomings in the financial management of SAMDI, which need urgent attention, also on Parliamentary level.

## **2.3 The Public Service Accountability Monitor (PSAM), incorporating the Eastern Cape Accountability Monitor**

The Public Service and Eastern Cape Accountability Monitor is a non-statutory body keeping an eye on the financial management of the government in general and the Eastern Cape Provincial Government in particular.

The Monitor published a number of lists containing details of actual cases of corruption that took place in the Eastern Cape Provincial government as per the table below (please see reference below).

<b>VARIABLE</b>	<b>NO OF CASES</b>	<b>NO RESOLVED</b>	<b>% RESOLVED</b>
CORRUPTION	345	28	8%
MALADMINISTRATION	170	3	2%
MISCONDUCT	179	28	15%
CONFLICT OF INTEREST	6	1	2%

Examples of the cases of corruption include:

R15 million in pensions paid out to 2400 under-60s.

29 officials implicated in a R2,8 million petrol scam.

Eastern Cape Safety and Security spokesperson convicted of fraud.

Transport official arrested for attempted fraud of R950 000.

Two Bisho employees guilty of cheque theft.

Health official arrested after cheques disappeared.

Pensions paid out to bogus or dead people.

Examples of corruption and maladministration in The Eastern Cape Provincial government is regularly reported on by various bodies.

(<http://www.case.psam.ru.ac.za/cmwstypes.asp#Corruption>):

## **2.4 KZN Provincial Internal Audit Unit**

According to PJ Mahloba, Manager of Provincial Forensic Investigation Services (SDR. 2004 Vol. 3. No. 2. pp. 84 - 87), the following data has been confirmed statistically by Ernest and Young in a fraud and corruption survey in South Africa:

More than 90% of fraud and corruption goes undetected.

In South Africa, 85% of fraud and corruption are by insiders divided up between staff (30%) and managers (55%).

Of managers guilty of fraud and corruption, 85% have less than one years' service.

The most single contributory factor to fraud and corruption in SA can be ascribed to weaknesses in internal control systems.

According to the Earnest and Young survey, the areas of prevalence of fraud and corruption in South Africa are:

Bribes.

Inventory stock.

Fruitless expenditure.

Procurement.

Irregular expenditure.

Asset theft.

Unauthorised expenditure.

Leave.

Cheques.

Claims.

Payroll.

The average global loss resulting from fraud per organisation is R16.5m (\$2.75m).

The cost of forensic audits amount to at least R40m (\$7m) per annum. This money could have been utilised for poverty alleviation and job creation.

## 2.5 Heath Consultants

According to Advocate WH Heath of Heath Consultants (please see reference below), in the recent Arms Procurement Deal in South Africa, democracy was seen to have failed in that the call by the oversight committee for an in-depth investigation with particular reference to an investigation by objective experts, was never adhered to and therefore failed the principles of democracy.

Members of the oversight committee made an about turn after the initial conclusion which they had arrived at – in other words, their opinion regarding the investigation of the validity of the arms deal changed completely. The general view in South Africa is that these members were instructed by the executive to “tow the (party) line”. This impacted on the separation of powers and therefore on democracy. The parliamentary oversight committee did not recommend that the contract be cancelled. However, the committee proposed an investigation into certain glaring flaws in the negotiating process which led to contracts governing the Deal.

According to Heath, a complete investigation conducted by the agency equipped for that purpose, as recommended by the committee, was not undertaken.

This lack of adherence to recommendations of Parliament is the reason why controversy still looms over the South African Arms Deal even though the contracts were signed by the government some years ago.

Governments becoming involved in negotiations with such companies should leave the ground work, the negotiations and the recommendations regarding defence contracts to parties who are independent of the government and who are objective experts, perceived by their fellow countrymen as individuals who uphold high standards of integrity.

Heath Consultants identify a number of “red flags” of corruption in arms procurement contracts. A “red flag” is an advanced warning or device that enables one to be

proactive by recognising the potential for corruption and taking steps to avoid it. A number of these are provided below.

1. High-ranking government officials establishing offshore companies and running offshore bank accounts.
2. Government officials paying for non-existent goods and services to entities owned by a politician, his associates, or family members.
3. Politicians/government officials purchasing significant assets or investing in high-end real estate.
4. Members of government accumulating unexplained financial wealth, especially if inconsistent with information provided on public disclosure forms.
5. A lack of control over and total disregard for specified and general accounting procedures for purchases of government equipment and use of government funds.
6. Government paying individuals with no justification listed on the books and cashed at exchange houses.
7. A single person in government or a limited group dominating operational, tendering and financing decisions in Defense Procurement Contracts;
8. Aggressive and dismissive attitude by politicians and arms manufacturing companies towards the findings and advice of independent consultants;
9. Governments not appointing or utilising agencies established in terms of their constitutions for their designed purposes in large government contracts;
10. Arms manufacturing companies providing excessive incentives for government officials during the tendering process;
11. Governments of arms manufacturing companies assisting these companies financially and diplomatically to secure defense procurement contracts;
12. High level politicians or arms manufacturing companies with questionable reputations;
13. Governments who are uncommitted to anti-corruption measures and their implementation in arms contracts;
14. Lack of qualifications and/or incompetence of politicians – easy target for syndicates or arms manufacturers with dubious intentions;
15. Government officials who vehemently retain authority in contracting processes and who refuses to delegate to obvious officials within the government;

16. Government officials who overrides systems such as tendering processes;
17. Governments who's attitude is one of supreme power and little trust;
18. Governments who have little regard for the opinions of and issues raised by opposition parties and other stakeholders representing the interests of the community;
19. Internal communications within governments is always from the top down – no proper reporting structures;
20. Politicians who are highly erratic and highly emotional – this can easily be gauged by their public statements, etc.;
21. Politicians with high personal debts or financial losses;
22. Politicians with extravagant lifestyles – beyond the means of their office;
23. Close relationships between politicians and certain tendering parties or publicly known relationships with certain private sector institutions;
24. Too much trust placed in certain key members of government, without proper review process of their performance;
25. Reluctance by government to provide constitutionally established agencies with needed information to perform their legal duties;
26. Politicians who frequently rationalise failures in media statements – this includes rationalizing increases in costs of defense and other government contracts;
27. Government officials who enter into regular significant transactions with the same parties on behalf of the state;
28. Failure to have a clear policy to require government officials and decision makers to disclose their interests;
29. Cabinet members (the executive) who have little regard for their accountability to the legislative;
30. Nepotism in government departments and in the tendering process;
31. Property misuse – using state assets to entertain and accommodate parties involved in the tendering process;
32. Many difficult and unexplainable accounting issues in the procurement process - Financial and related records are difficult to audit and audit trail difficult to establish;
33. Doubts regarding the independence of government officials and parties contracted by the state to facilitate procurement processes;

34. Payments made to government officials, which are not disclosed for tax purposes.
35. A history of failure to record dishonest acts and discipline government officials;
36. Inadequate government policies with regard to internal controls in procurement processes;
37. Procurement contracts which are unduly complex and thereby lacking in transparency;
38. An urgent need by governments to report favourable elements of procurement contracts to the public;
39. Costs and expenses of procurement contracts outweighing the military needs of a specific country and also if measured against the social welfare needs of a country;
41. No division of duties between new contracts approval and authorization for purchasing.
42. Contracts written to limit competition (for example, sole-source contracts).
43. The same manufacturer always wins contracts by small margins.
44. The contract always goes to the bid received last.
45. Splitting one purchase into multiples to avoid the approval process.
46. Paying above-market prices for defence packages.
47. A lack by governments to conduct Integrity and Due Diligence Studies on parties in the tendering process, conducted by independent consultants/advisors.
48. Politicians and others in authority do not concede the problems of corruption.
49. It is relatively easy for employees with dishonest intentions to get to know all the “loopholes” in an organisation’s control measures  
(<http://www.transparency.org.uk/PCOATdocs/PCOAT%20Presentation%20by%20Judge%20Heath.pdf>).

### **3. DEVELOPMENT OF ORGANIZATIONAL ETHIC SINCE THE 1996 CONSTITUTION**

Various measures have been put in place since the 1996 Constitution to deter corruptive practices. Among those are drafting of codes of conduct, various initiatives, such as whistle-blowing, training initiatives and short courses to make public officials aware of the need for ethical conduct whilst dealing with public monies and public affairs.

#### **3.1 Anti-corruption efforts in South Africa**

According to the erstwhile Public Protector as quoted in the Journal of Public Enquiry, Fall/Winter 2001, found on Internet <http://www.ignet.gov/randp/f01c06.pdf>, efficiency improvements should not be achieved at the expense of high ethical standards.

According to the Public Protector, a values-based approach alone is inadequate, corruption is as much about systems as about individual conduct. Which is the *raison de etre* of the existence of codes of conduct, administrative law mechanisms, whistle-blower protection, effective auditing, monitoring and law enforcement systems and training in and support of ethical conduct, which are essential components of an ethical public sector service-rendering environment.

The 1996 Constitution commits South Africa to implementing an ethical, accountable and democratic system of governance.

The Department of Public Service and Administration (DPSA) is leading the process of transformation to ethical public servant behaviour from within the public service. It is complemented by the Public Service Commission as well as the Parliamentary Portfolio Committee on Public Service and Administration, which both play an essential oversight role.

Since the advent of the 1996 Constitution, the South African Government has taken several significant steps to ensure clean and accountable administration.

In 1999, the National Anti-Corruption Initiative was launched. Its brief has been to initialise the creation of a National Anti-Corruption Forum, which contributes towards the establishment of a national consensus and coordination of sectoral strategies against corruption, to advise the government on national initiatives on the implementation of strategies to combat corruption, to share information and best practices on sectoral anti-corruption work and to advise sectors on the improvement of sectoral anti-corruption strategies.

### **3.1.1 Legislative and Administrative Measures**

Section 195 (1)(a) of the Constitution of the Republic of South Africa Act 108 of 1996 dealing with basic values and principles governing public administration states that:

“ . . . a high standard of professional ethics must be promoted and maintained . . . “.

Paragraph (2) of section 195 of the Constitution states that:

“ . . . the above principles apply to -

- (a) administration in every sphere of government;
- (b) organs of state: and
- (c) public enterprises . . . “.

Section 195 (3) states that:

“ . . . national legislation must ensure the promotion of the values and principles listed in sub-section 1 . . . “.

Other targeted legislative and administrative measures include:

- a. The establishment of constitutionally independent bodies such as the Auditor-General and the Public Protector (national parliamentary ombudsman).
- b. A Special Investigative Unit, which does require a Presidential Proclamation before investigating and recovering by civil remedies misappropriated public monies.
- c. Investigating Directorate on Corruption in the office of the National Director of Public Prosecutions.
- d. The recent establishment of Inspectors-General within certain state departments, including the military, and the police and intelligence services.
- e. The passing of the Executive Members' Ethics Act and its Code of Conduct governing the conduct of and disclosure of interests by members of the Cabinet, including the President and Deputy-President; Deputy Ministers; and members of Provincial Executive Councils (Cabinets). The Code requires a level of disclosure at least as extensive as that required of Members of Parliament.
- f. The Code of Conduct for public servants contained in Chapter M of the Public Service Regulations, which governs relationships with the legislature, executive, public, colleagues, as well as performance, personal conduct and disclosure of private interests.
- g. The service contracts of heads of government departments (and soon their senior officials) require them to disclose their financial interests.
- h. The Public Service and Administration Minister has recently proposed the regulation of private employment by senior government employees after resignation from the public service.
- i. The recent enactment of the Protected Disclosures Act to protect whistle-blowers in the public and private sectors, albeit only when in an employer/employee relationship.

j. The new Public Finance Management Act significantly enhances clarity concerning the responsibility of designated accounting officers for the management of public finances.

k. Public sector procurement reform is currently under way, with detailed anti-corruption mechanisms proposed in conformity with international best practice.

### **3.1.2 The Role of the Public Protector**

The Public Protector of South Africa is in essence an ombudsman in the classical sense of the word. In terms of section 182(1) of the Constitution of the Republic of South Africa Act 108 of 1996, the Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice.

The Public Protector has been involved in, or supportive of, many of the developments regarding the anti-corruption efforts described above. This was in furtherance of the constitutional injunction that the Public Protector is an institution to strengthen constitutional democracy in South Africa (see section 181(1) of the Constitution, 1996).

The main contribution of the Public Protector is that of investigating, reporting and taking appropriate remedial action, mostly by way of recommendations. To give more detail on how the Public Protector responds when requested to investigate corruption, it becomes necessary to get a clearer understanding of this nebulous term.

For present purposes it is convenient to distinguish the following “types” of corruption:

a. Criminal corruption, where the perpetrator can be prosecuted. The term is wide enough to include crimes like the taking of bribes, fraud or theft.

b. Corruption in the ethical sense, where the act does not constitute a crime, but is nevertheless unethical or in contravention of, for example, a code of conduct.

c. Corruption in the sense of a system not working or disintegrating because of, for example, incompetence or negligence. As far as criminal corruption is concerned, the usual reaction to a complaint received by the Public Protector would be to refer the matter to the police or prosecuting authorities who are the appropriate institutions to deal with it. In his role as a receptacle for complaints from members of the public, the Public Protector often gets criminal corruption reported to it. However, the Public Protector has an important secondary role to play where the criminal corruption is the result of maladministration within the exploited state institution. In this regard the perfect example would be a recently concluded investigation of the Public Protector into corruption with regard to state subsidies paid for sub-economic housing. It had been reported that private contractors are misappropriating such subsidies without providing proper housing in return. The Public Protector launched an investigation into the matter, but brought in the Director of Public Prosecutions to deal with the fraud investigations. The Public Protector concentrated his investigation on the procedures for the payment of subsidies in the relevant provincial housing department, and on the adherence to such procedures, with the aim to prevent similar crimes in future (Journal of Public Enquiry, Fall/Winter 2001, found on Internet <http://www.ignnet.gov/randp/f01c06.pdf>, .

#### **4. CONCLUSION**

This paper examined corruption and the development of organizational ethic in the South African government and public service since the 1996 Constitution.

Various elements of corruption were explained, including general aspects pertaining to sub-saharan government and administration in general and in particular, corruption in South Africa.

A number of specific examples of corruption in South Africa was provided, reports by various bodies and institutions involved in anti-corruption efforts.

Lastly, an overview of anti-corruption measures taken by the South African governments as elucidated by the erstwhile Public Protector, was provided.

Particular notice was taken of the comments by Minister Geraldine Fraser-Moleketi, the Minister of Public Service and Administration, during the 2005 Anti-Corruption Conference held in Pretoria to the effect that anti-corruption initiatives have become a government priority.

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