ABSTRACT

Corruption is the single major impediments to sustainable development and economic growth for developing countries like Botswana. The Botswana Directorate on Corruption and Economic Crime (DCEC) was formed in August 1994 through an Act of Parliament, against the background of a number of scandals in Botswana’s public sector. The Directorate uses a three prong attack strategy borrowed from the Hong Kong ICAC. In the seventeen years of existence, the Directorate has had its achievements and short comings.

This paper describes the Botswana experience in fighting corruption. It briefly outlines a number of factors that are conducive to corruption and fraud and then details some of the activities of the Directorate on Corruption and Economic Crime against corruption, well known as the DCEC. While the corruption prevention practices have been developed to suit the Botswana environment, it is believed that many corruption problems stem from common causes and may respond to similar approaches.

Among its main achievements are its successful coordination of a campaign amongst the general public against corruption and a high conviction rate of investigated cases. On the contrary, some of its short comings are the delays in justice system because of other cases pending from stock theft through
burglary to other offences. In spite of many problems confronting the agency, it has seen prosecutions from low class to high class people. This paper highlights the achievements and workings confronting the Botswana DCEC. Though it is difficult to measure the successes of anti-corruption agencies, because of their inter-relatedness to departments like Directorate on Public Prosecutions and the Courts, this paper will attempt to dissect this relationship and propose model that will see corruption cases prosecuted in real time.

The paper further implores other developing nations in particular to emulate the Botswana experience and adapt it to their situations, especially those in Africa, which corruption is a serious impediment to development.

**KEY WORDS**

Botswana, Corruption, achievement
Introduction

Corruption exists throughout the world, in developed and developing countries alike. In recent years there have been significant increases in the attention paid to corruption, in part due to (i) series of high level corruption cases in industrialized countries and (ii) due to an increasing awareness of the costs of corruption throughout the world and iii) due to the political and economic changes which many countries are undergoing. Corruption in Africa is not only a development issue but a governance issue also.

Corruption is a complex issue which has no "quick fix". It is a journey and a long journey indeed. It needs proper planning, determination, resilience and above all, political will. It is my ardent hope and expectation that impetus will be given to reshape the focus of strategies and cooperation in the fight against corruption.

At a time rich nations start to cut their budgets to overcome the economic distress, developing nations increase their expenses and their social projects. Corruption is one of the biggest barriers to prosperity. It takes way the money where it supposes to be spent; private projects instead of infrastructure, luxury cars instead of schools are undertaken.
Corruption prevents businesses from being effective, long and complicated procedures to force people to pay for doing business, raising the cost and discouraging the investors.

Corruption or the weakness of the less educated, is not in the developing nations only, it is problems with ethics and morality that exists in every culture. Attempting to reduce it with simple moral principles is worthless without sanctions (rule of law must exists and function).

African countries cannot bear the costs of corruption, which impedes development and minimizes the ability of governments to reduce poverty. Effectively addressing corruption in African countries has become a development imperative.

Corrupt practices range from petty corruption whereby bribes are required before normal bureaucratic procedures are accomplished, to large scale corruption whereby considerable sums of money are paid
in return for preferential treatment or access. Corruption is rampant in the political, economic and administrative areas. Corruption is worse in countries where institutions, such as the legislature and the judiciary are weak, where rule of law and adherence to formal rules are not rigorously observed, where political patronage is standard practice, where the independence and professionalism of the public sector has been eroded, where ethics are undermined and where civil society lacks the means to bring public pressure to bear.

Once corruption is ingrained in the system, its negative effects proliferate. It induces suspicion, because people begin to regard it as the norm. It undermines social values because people find it easier and more lucrative to engage in corruption than to seek legitimate employment. It erodes governmental legitimacy because it hampers the effective delivery of public goods and services. It limits economic growth because it reduces the amount of public resources, discourages private investment and saving and impedes the efficient use of government revenue and development assistance funds.

**Conceptual clarification**

Corruption is a term that has been perceived in various ways by various scholars. Its conceptualization has attracted in recent past competing and numerous views and approaches. It is therefore seen as a worldwide phenomenon which has long been with every society in the world. It has been identified as the bane of most political and economic problems in societies. Corruption is again considered as an enemy of economic development because of its various vices. Countries that condone corruption are often besieged with a lot of economic, political and social vices.

Khan (1996) defines corruption as an act which deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private - regarding - motive such as wealth, power or status. “Corruption is the perversion of integrity or state of affairs through bribery, favour or moral depravity” It takes place when at least two parties have interacted to change the structure or processes of society or the behaviour of functionaries in order to produce dishonest, unfaithful or defiled situations”. In other words - corruption is a systematic vice in an individual, society or a nation which reflects favouritism, nepotism, tribalism, sectionalism, undue enrichment,
amassing of wealth, abuse of office, power, position and derivation of undue gains and benefits. Corruption also includes bribery, smuggling, fraud, illegal payments, money laundering, drug trafficking, falsification of documents and records, window dressing, false declaration, evasion, underpayment, deceit, forgery, concealment, aiding and abetting of any kind to the detriment of another person, community, society or nation. Again careful study of the presentation of Otite shows that corruption transcends bribery but includes “treasury looting and also the deliberate bending of rules of the system to favour friends or hurt foes. It is clearly the evidence of absence of accountability, law and order.” (Humanity & Social Sci. J., 2 (1): 01-07, 2007)

**Botswana: Historical Perspectives**

Although one can certainly point to instances of corruption in Botswana (Good, 1994), the bureaucracy has been on the whole meritocratic and non-corrupt. Despite the mineral wealth, the exchange rate has not become overvalued, while monetary and fiscal policy has been prudent, and the government invested heavily in public goods, such as infrastructure, health and education.

Botswana has maintained one of the world's highest economic growth rates since independence in 1966, though growth fell below 5% in 2007-08, and turned sharply negative in 2009, with industry falling nearly 30%. Through fiscal discipline and sound management, Botswana transformed itself from one of the poorest countries in the world to a middle-income country with a per capita GDP of $13,100 in 2010. Two major investment services rank Botswana as the best credit risk in Africa. Diamond mining has fueled much of the expansion and currently accounts for more than one-third of GDP, 70-80% of export earnings, and about half of the government's revenues. Botswana's heavy reliance on a single luxury export was a critical factor in the sharp economic contraction of 2009. Tourism, financial services, subsistence farming, and cattle raising are other key sectors. Although unemployment was 7.5% in 2007 according to official reports, unofficial estimates place it closer to 40%. The prevalence of HIV/AIDS is second highest in the world and threatens Botswana's impressive economic gains. An expected leveling off in diamond mining production within the next two decades overshadows long-term prospects.
Economic developments in Botswana have been generally positive and the macroeconomic fundamentals have been sound. At the conclusion of the last Article IV Consultation in February 2008, the IMF commended the country for its good track record of sound macroeconomic policies, good governance and high levels of investment made possible by prudent utilization of mineral wealth. The economy recorded strong GDP growth (averaging 4.3%) over the period 2004/05-2007/08, reduction in inflation and continued strong balance of payments and fiscal surpluses. Monetary policy has kept interest rates high to stabilize inflation around the authorities’ inflation objective of 4-7%. The exchange rate policy has had to strike a difficult balance between supporting low inflation on the one hand and maintaining international competitiveness by reducing domestic prices in international terms. External debt is low and gross external reserves have generally been high reaching 25 months import cover in 2006/07 slightly declining to 24.4 months in 2007/08. These sound macroeconomic fundamentals are now being put at risk by the global financial and economic meltdown.

Good Governance Situation in Botswana

Botswana is regarded as an example of a well governed state with desirable attributes. One of the findings of the Bank’s 2008 Country Governance Profile (CGP) is that Botswana ranks in the top 25% of various governance indices world-wide, and in most cases, tops the African region. This is due to a number of factors including prudent management of the economy, effective national development planning, dedicated leadership, capable state institutions, in-built checks and balances, and an efficient judicial system. This view is also corroborated by another recent report on the Progress of Good Governance in Botswana jointly prepared by the Botswana Institute for Development Policy Analysis (BIDPA) and the United Nations Economic Commission for Africa (UNECA) which also assessed Botswana’s governance performance as very impressive8. Other governance assessments by the World Bank, the Mo Ibrahim Foundation, World Economic Forum, Transparency International and the Commonwealth Business Council, have all ranked Botswana highly. The Bank CPIA has consistently ranked Botswana in the first quintile consistently for the past five years, with an average overall score of 4.68 over the period 2006-2008; the average score for economic management is 5, structural policy (4.5), policies for social inclusion and equity (4.2) and public sector management and institutions (5)
Overview and historical background of the Directorate on Corruption and Economic Crime (DCEC), Botswana

The Directorate on Corruption and Economic Crime ("DCEC") was born in September 1994 in order to respond to among other issues, the findings of three presidential commissions of inquiry into misappropriation of huge amounts of money. The DCEC was established along the lines of the Independent Commission Against Corruption (ICAC) of Hong Kong, after benchmarking against other countries. It has adopted the 'three-pronged strategy' which has proved to be effective and now internationally accepted as an effective tool in the fight against corruption. These are investigation, corruption prevention and public education.

The Directorate on Corruption and Economic Crime (DCEC) is an operational autonomous body under portfolio responsibility of the minister for Justice, Defense and Security. It is headed by the Director, assisted by one deputy. Five Assistant Directors, each of whom heads a distinct branch responsible for a specific task. The headquarters is in the Gaborone city, and there is an office in Francistown which takes care of the northern part of the country. Another office has been set up further north of the country, (Maun) in the hub of the tourism capital of the country.

The DCEC mandate is to combat corruption and economic crime as well as money laundering. The DCEC cooperates with other law enforcement agencies like the Botswana Police, Customs and Exercise, Immigration Department, Ombudsman and Wildlife Department and also International organisations such as Interpol.

Strategies used by DCEC to combat corruption

(i). Raboammaaruri campaign
Raboammaaruri campaign is for primary school pupils. This is a program directed at inculcating the spirit of moral uprightness in children at their tender age. The campaign is by way of a mascot that preaches honesty and accountability.
(ii). Anti-corruption clubs
The clubs run in both junior and senior secondary schools. Their main objectives are for the youth to disseminate anti-corruption information to their peers, to participate meaningfully in social and economic activities and to improve the youth understanding of ethics. The activities of the clubs culminate in an annual congress at the end of the year at which clubs share experiences with a view to assisting each other to run the clubs effectively.

(iii). School curriculum
Corruption concept has also been infused in the school curriculum to be examinable in our formal education system. This is a breakthrough in the campaign against corruption for the youth of Botswana. The youth also participate in essay writing and debates at which activities they interact with others and also share their views on their understanding of issues of corruption and how they can meaningfully contribute in the fight against the scourge.

(iv). Publications
Publications are designed with specific messages for the public officers, e.g. the Imprest retirement brochure. The general public is targeted through Kgotla Meetings, District and Agricultural Fairs and Exhibitions, Radio and Television shows, Advertorials, Press Releases, brochures, booklets and the Annual Report.

(v). Assignment studies
This is a critical examination of the systems and procedures (policy, legislation, organizational procedures and instructions), involved in a defined area of activity within an organisation. The purpose is to identify existing weaknesses in the system and to recommend methods of improvement.

(vi). Workshops /seminars
The Corruption Prevention prong provides management oriented presentations for management of organizations with the aim of improving quality of management. They also conduct corruption prevention seminars. The corruption prevention techniques include: the introduction and adoption of Codes of Conduct and Ethics, Transparency, Accountability, Corruption Prevention Measures, Corruption Risk Assessment
(vii). Secondments of DCEC officers to government ministries
This is an anti-corruption initiative of seconding officer to other government ministries. It is intended to promote anti-corruption culture in ministerial operations by: providing in-house anti-corruption advise, evaluating the effectiveness of existing anti-corruption initiatives, forming new Corruption Prevention Committees and building capacity on existing ones, facilitating development of new anti-corruption strategies.

(viii). Consultancy services
The Corruption Prevention prong provides expeditious consultation services to public sector organizations when new procedures or policies are being formulated. They also provide consultation services when quick corruption prevention advice is called for. They can also assist in development Codes of Ethics.

Government requires its stuff to behave ethically, and those involved in contractual and management processes must abide by written codes of behavior. The government is also concerned that business enterprises and their employees maintain similarly high standards of ethical conduct in all their dealings with government.

An accepted code of ethical behavior might assist everyone to have a fair and productive relationship with each other. Such a code should enable service providers to promote their interests constructively, and avoid unproductive and potentially questionable or unlawful activities. Suppliers should also benefit from assurance that their competitors are behaving ethically, according to a known set of business conventions.

The year 2010 recorded a historic surge in the relevant reports falling within the remit f the DCEC, signifying more robust detection mechanisms as a result of revamping the intelligence and technical support groups. For the past ten years the percentage of reports classified for investigation ranged between 30-33% and 2010 saw a percentage increase by 8% to 41%. This increase could be attributed to aggressive public education campaigns. More complex cases were received with more companies taken to court for various corruption offences.
Due to the service level agreement signed between the DPP and the DCEC, there has been a great improvement in the turnaround of cases at DPP even though it is not the best, but it has improved from the previous years. The main challenge is still left with the courts where cases take long to be completed.

**Factors contributing to corruption**

The DCEC continued to receive substantial amounts of allegations that do not fall within the remit of the Corruption and Economic Crime Act. These reports reveal a trend of porous government systems leading to maladministration which if not adequately addressed create opportunities for individuals to manipulate the systems that they operate to eventually commit corrupt acts.

**Legal framework**

The annual Transparency International (TI) reports show that Botswana is Africa’s least corrupt country in the last half decade. Despite this positive rating, Government of Botswana continues to put in place measures to combat corruption as well as economic and financial crimes. For instance, the Corruption and Economic Crime Act, and legislation against money laundering have been enacted. The financial Intelligence Law has also been enacted by Parliament and this is a required policy action for the EDSL. The expected outcome is improved governance in the financial sector, particularly in the area of anti-money laundering and combating terrorism financing.

In 2000, Parliament effected an amendment to the proceeds of Serious Crimes Act of 1990 to give the DCEC an additional mandate to investigate money laundering and to collate financial intelligence. This piece of legislation is used together with the Extradition Act of 1990 and the legal Mutual Assistance Act, as money laundering is both a national and transnational crime.

The DCEC work in collaboration with other strategic partners like the Botswana police Service where they are some slots reserved for the DCEC officers on some special courses at the Botswana Police College. The intelligence division officers are also sent for training in South Africa, and due to the
influx and huge Chinese investment in the country, an officer has been sent to study Chinese language in China.

**Achievements of the DCEC**

Whereas a number of observers, especially within Botswana have dismissed DCEC as a largely ineffective organization, a number of other close observers, especially from outside the country are convinced that DCEC, has been a success so far.

Among its most important achievements are:

(i). Focusing Attention on Corruption as a serious economic and social problem in Botswana. This is important for a country whose economy is very resilient. It is easy for the people and their leaders to become complacent on ethical matters. Besides, the organization has challenged ordinary citizens of Botswana to play a role in tackling corruption. They could secretly report corrupt charges through the hotline. A total of almost 1851 reports were lodged in 2010 and 41.6% of this reports were classified for investigation, of the 41.6%, 82.34% were dealing with corruption, 11.69% were economic crime and 5.97% were money laundering cases. The reports showed that the most common types of cases investigated revolved around procurement, illicit allocation of land, soliciting and acceptance of money as bribe. The number of cases classified for investigation increased by 99 from 671 in 2009 to 770 in 2010 which represents a 14.8% increases.

(ii). DCEC has been constantly accused of failing to catch ‘big fish’ criminals. It responds to this charge by arguing that it is not morally defensible to simply arrest people without credible evidence. On the other hand, DCEC has succeeded in investigating the information available to it on corruption and economic crimes and it has been highly successful in prosecuting and getting conviction. The 91 cases pending before the courts, 49 cases were registered during t year 2010, and 16 cases were completed in the same year with a conviction record of 11 representing 68.7% compared to 53% of last year and five acquittals as compared to 46.7% in the previous year. The DCEC does not target people’s political or official posts, but target wrong doing. The DCEC views people as people, irrespective of who they are. Corruption is bad in totality. Having said that, yes the DCEC has brought politicians and top civil servants to book.
DCEC has been able to put through the parliament a new code of ethics that requires all parliamentarians to make a declaration of their financial assets and to make these assets available for public scrutiny. This is a far cry from what obtains in many African countries in which declaration assets are regarded as secret property, available and accessible only to the state and its officials. DCEC has also been able to focus on the most strategic corruption-prone areas as already indicated above. The latest addition is the growing tourist industry around Maun.

DCEC has assisted organizations such as the Botswana Federation of Commerce and Industry and Manpower to produce draft codes of ethics. It has also produced a government standard of Supervisory accountability and has succeeded in getting a procedure for scrutinizing the certificates of foreigners seeking employment in Botswana.

Some of the notable achievement of the DCEC in the period 2010 is the record of the reduction of corruption levels within the ministries that always topped the list in terms of the rate of corruption in Botswana. This improvement is largely attributed to the efforts by the DCEC and concerned ministries in implementing robust corruption prevention strategies.

In managing its case load, the DECC developed strategies which include among others an established quick response team, quarterly case inspections and having bring up dates on files report within 28 days of receipt of a file by investigators.

**Challenges Confronting DCEC**

In spite of these important achievements, DCEC is also confronting a number of problems, some of them quite serious. The first of these is manpower problem. The DCEC experienced difficulties in maintaining the 2% vacancy rate because it’s not easy to find experienced investigators in the market. There was a Presidential directive in 2010 that froze all the post by DPSM, however the DCEC was later given a specially dispensation to proceed with recruitment. The vetting process also hampers fast recruitment while increasing the turnaround time recruitment process.

There are also serious institutional problems. The courts are not able to respond adequately and promptly to cases brought before them. Some cases drag on for very long (over 6 or 7 months) as a result of this. In addition, the requirement – not in the Act establishing DCEC but in practice imposed
by judges - that they must secure warrant also makes it difficult to catch potential culprits. This is because magistrates have to be convinced that a particular case merits being pursued, and that the human rights of the suspected criminal were not impugned. This leads to the loss of much valuable time, especially for those who are well connected.

(iii). Moreover, the Agency has also faced problems from the Public Service Management department which, like for all other parts of the civil service, recruits for DCEC. Indeed, the last Director of the DCEC was convinced that its agency’s inability to secure staff in good time is due to the procedures of DPSM which requires that vacancies must actually occur before they are filled instead of being filled proactively.

(iv). Strengthening of the legal framework - the Corruption and Economic Crime Act is considered inadequate to deal with issues of insider trading, whistle blowing and cyber crime and is an area that requires urgent attention in order to tackle corruption. Emerging trends in "e-corruption" committed through electronic devices such as email, facsimile, internet and telephone. Botswana is yet to adopt the international criteria prescribed by United Nations in such cases. This challenge is also associated with the problem of jurisdiction outside the country's territorial boundaries.

(v). Delays at the Directorate of Public Prosecutions (DPP) continue to pose a challenge for the DCEC. Cases experience delayed initially during the examination of dockets, before they are registered with the courts and are further delayed when trial dates may be set six to seven months after their registration. These delays have been attributed to shortage of staff at the DPP and at courts.

(vi). Difficulty in extraditing suspects who had absconded from bail and gone abroad remains a challenge. The problem also relates to bail conditions set for foreigners and cooperation between states, sharing of crime data and harmonization of laws.

Some of the current challenges are situations where one person owns a number of companies and colludes with government officials so that he/she submits procurement quotations using those several companies and end up winning the tender because he/she was competing against themselves. The set back of this challenge is that the legal laws of the country allows for one to register several companies
and when those individuals uses various companies even though they are owned by one person, there is little the DCEC can do though it is a clear corruption opportunity.

**Relationship of DCEC and DPP**

The relationship between the DCEC and the Director of Public Prosecutions (DPP) is also a critical one. What use is evidence if the suspect cannot be prosecuted? Generally a DPP is given, under the Constitution, sole oversight for all prosecutions and is empowered to intervene in any criminal proceedings initiated by any other person or authority. However, in assessing the independence and the likely effectiveness of the DCEC, the question arises whether, under the Constitution, the DPP enjoys sufficient independence in exercising the discretion to prosecute so as to ensure that there will be little scope for political interference after investigations by the DCEC have been completed.

Nevertheless, some countries have found that a public service can ignore an anti-corruption body’s recommendations. What is the answer? Can Parliament, perhaps through the Agency’s annual report or otherwise, be used as a forum in which departments who fail to cooperate can be questioned and held to account for any such failure to revise bad practices?
Figure 1. Prosecution Model

The above model suggests that to improve the relationship between the DCEC, DPP, the courts and the public, there is need to establish an effective internal prosecution within the DCEC for cases less that BWP 50,000.00 in value. After a careful assessment of such, those cases will be sent to the magistrates courts for trial, in this case, this would have reduced the ever piling up and huge volume of cases to be prosecuted by DPP, which does so for the whole country and does so on any criminal matter in the country. There will be those cases which will not fall under petty corruption; these are the ones of more than BWP 50,000.00; that will need the careful eye of the DPP then later on referred to the courts for trials also. This model will make the public to have trust in the directorate because if cases are prosecuted and trialed on real time before the public looses interest in the case, the results of the case might even encourage the public to effectively contribute in the fight against corruption.

Note that the model does not suggest the outcome or the process of courts proceedings, but merely disposes cases off from the DCEC and DPP on time. It might take some time for the case to be laid to rest but if it is brought before the courts as early as possible, the better as it builds the morale of the public on the directorate.

Conclusion

The enforcement of a strong anticorruption law based on a zero tolerance approach, backed by effective prevention and educational programmes, and has had a marked impact in Hong Kong. The community culture has changed from one of tolerance of corruption to rejection. The same thing can be replicated to Botswana where by the laws must indicate that it is safe and acceptable for the public to raise a genuine concern about corruption or any form of illegality, workers assume that they risk loosing their jobs, damaging their careers or for that matter being prosecuted for disclosing information that might be otherwise considered classified or confidential by the employer. The courts must also act with independence and enforce the rule of law without any interference or pressure from anyone. Since the judges are responsible to their own judgments through a system of appeals and each being accountable for his/her integrity and competency to another upper body.
Where corruption thrives, there is no public safety— for corruption undermines and distorts social harmony and development thus threatening national stability and democracy.

Poor co-ordination, communication and co-operation between various agencies or organizations may facilitate corruption. Provided the system requirements meet the criteria of simplicity and effectiveness, the answer is to monitor service levels, measure performance against objective standards and penalize non-compliance through transparent mechanisms.

Evidence has shown that corruptible person’s behavior not only depends on wages, bribes and auditing but it also depends on the behavior of his colleagues. If many of them are corrupt it becomes less likely that the corrupt agent will be identified and punished.

The DCEC with its interventions has shown that Corruption prevention is an organizational, as well as individual, ethical responsibility. While corruption depends on individuals, it may be unwittingly encouraged or protected by certain features of an organization’s activities or structural deficiencies. Many problems can be traced back to poor control exercised by senior management. The Botswana experience might not be the best, but since it’s a developing nation, and corruption is rampant in developing nations, this paper implores developing nations in the region and afar, to adapt the Botswana way.

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