

# The Anti-corruption Institutions in South Africa: A Panacea to Governance Ills?

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## Abstract

The purpose of this article is to assess the role played by the South African anti-corruption institutions in addressing corruption in government departments. The negative impact of corruption on the effectiveness and efficiency of the service delivery by government departments necessitates an examination of the role of the anti-corruption institutions. For the purposes of this article, a review of scholarly published articles, newspaper articles, case law and annual reports of the anti-corruption institutions in South Africa was undertaken. With regard to the anti-corruption institutions, it has not yet been established whether they are operating free of political interference in South Africa. This article contends that the anti-corruption institutions should be sufficiently resourced and funded by the government to enable them to deal effectively with the corrupt activities that pervade government departments. Moreover, the anti-corruption institutions should be able to perform their functions without any political interference that could possibly influence their proper functioning negatively.

**Keywords:** anti-corruption institutions, corruption, criminal activities, proactive strategy, reactive strategy

## Introduction

The purpose of this article is to assess the role played by the South African anti-corruption institutions in addressing corruption in government departments. The negative impact of corruption on the effectiveness and efficiency of service delivery by government departments necessitates an examination of the role of the anti-corruption institutions. For the purposes of this article, a review of scholarly published articles,



newspaper articles, case law and annual reports of the anti-corruption institutions in South Africa was undertaken. With regard to the anti-corruption institutions, it has not yet been established whether they are operating free of political interference in South Africa.

The anti-corruption institutions in South Africa are faced with the mammoth task of rooting out the corruption that is occurring in various forms at different levels (eg national, provincial and local) of government departments. According to Corruption Watch,<sup>1</sup> the national departments in South Africa account for 24 per cent of corruption; provincial departments are responsible for 26 per cent, whereas the local government and state-owned entities account for 16 per cent and 34 per cent of corruption respectively. Surprisingly, Gauteng province alone is responsible for 50 per cent of corruption reported in 2015.<sup>2</sup> This is attributed to the fact that Gauteng is highly populated with approximately 13 million people and also considering the fact that all the national departments are based in Pretoria.<sup>3</sup> Furthermore, the national statistics on corruption have been on the rise since 2014, when 44 per cent was recorded, up from 38 per cent in 2013.<sup>4</sup> With regard to the rate of corruption in the South African public sector generally, Transparency International's Corruption Perception Index (CPI) 2013 indicates that South Africa ranked 72 in the world with a score of 42 (on a scale of 0 [highly corrupt] to 100 [very clean]) out of 177 countries.<sup>5</sup> In 2014, South Africa improved marginally in the fight against corruption by accumulating extra two points, which increased its score to 44, though it was ranked 67 out of 175 countries.<sup>6</sup> Moreover, South Africa moved five places up and was ranked number 61 out of 168 countries around the globe, although its score remained constant at 44 points.<sup>7</sup> These figures attest to the fact that corruption is still a major challenge in the South African public sector. In South Africa, corruption relating to the abuse of power accounts for 38 per cent, bribery 20 per cent, procurement 14 per cent and employment (nepotism) 8 per cent, while other forms of corruption account for only 20 per cent.<sup>8</sup>

Corruption is regarded as any conduct or behaviour pertaining to people holding the responsibilities of public office which transgresses their duties as public office-bearers, and which is intended to acquire undeserved gratification of any form for themselves or others.<sup>9</sup> Corruption is further concerned with the use of public office for private gain,

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<sup>1</sup> Corruption Watch, 'Annual Report 2015' (2015) 18.

<sup>2</sup> Corruption Watch (n 1) 17.

<sup>3</sup> Corruption Watch (n 1) 17.

<sup>4</sup> Corruption Watch (n 1) 17.

<sup>5</sup> Corruption Watch (n 1) 17.

<sup>6</sup> Transparency International (n 5).

<sup>7</sup> Transparency International (n 5).

<sup>8</sup> See Corruption Watch (n 1) 18.

<sup>9</sup> Viothan Naidoo and Paula Jackson, 'Reviewing South Africa's Efforts to Combat Corruption in Its Bureaucracy: 1994–2009' (HSRC 2009) 3.

which translates into the abuse of power and the breach of public trust within both government and non-government institutions.<sup>10</sup> According to the Prevention and Combating of Corrupt Activities Act 12 of 2004 a general offence of corruption means that any individual who expressly or tacitly consents to receive any form of gift or gratification from another individual, whether for his or her personal gain or for the benefit of another individual, or behaves in such a manner as to influence another person to misuse a position of authority; violate or neglect their legal obligations, or cause actions that ensue in breach of trust and leading to an unjustified result, will be guilty of the offence of corruption.<sup>11</sup> Therefore, from the provided definitions, corruption is regarded by this researcher as the intentional, dishonest and illegitimate conduct by bureaucrats in the performance of their duties in order to accrue some personal benefits or initiate benefits for others, benefits that ensue in breach of public trust. Webb<sup>12</sup> indicates that corruption can take the following forms: extortion, nepotism, embezzlement, fraud, abuse of privileged information, bribery and favouritism. Webb<sup>13</sup> further asserts that corruption is spawned by social, psychological, economic and organisational factors.

The extent of corruption has a negative impact on the capacity of a government to deliver services, since the allocated or available resources are depleted by corrupt activities. In essence, corruption undermines the basic principles of democratic governance, which results in the attrition of public trust and the erosion of confidence in a government. It also has the potential to hamper sustainable development, especially in instances where resources are exhausted as a result of corrupt activities.<sup>14</sup> Madonsela<sup>15</sup> adds that corruption is the source of poor efficiency, exorbitant costs, unsuccessful government programmes and poor-quality services and goods delivered to the citizenry. It is against this background that the anti-corruption institutions were established in South Africa, their mandate being to curb the effects of corruption.

Historically, in 1994 the newly elected democratic government was faced with the disturbing impacts of corruption in state institutions inherited from the apartheid

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<sup>10</sup> Department of Public Service and Administration (DPSA), 'Public Service Anti-corruption Strategy' (DPSA 2002) 10–11.

<sup>11</sup> Section 3(a)–(b) of the Prevention of and Combating of Corrupt Activities Act 12 of 2004.

<sup>12</sup> Werner Webb, 'Applying the Public Service Anti-corruption Strategy in pursuit of Accountable South Africa' (2005) 40 *Journal of Public Administration* 153.

<sup>13</sup> Webb (n 12).

<sup>14</sup> Hendrik Kroukamp, 'Corruption in South Africa with Particular Reference to Public Sector Institutions: The Evil of All Evils' (2006) 41 *Journal of Public Administration* 21; Geraldine Fraser-Moleketi, 'Towards a Common Understanding of Corruption in Africa' (2009) 24 *Public Policy and Administration* 332.

<sup>15</sup> Thuli Madonsela, 'Public Protector South Africa. Corruption and Governance Challenges: The South African Experience' (Article presented at the National Conference of Corruption and Governance Challenges, Nigeria, 2010) 3.

government.<sup>16</sup> The post-1994 government therefore introduced numerous anti-corruption institutions with the purpose of avoiding a replay of corrupt activities similar to those of the apartheid government. In an effort to combat and prevent corruption, the South African government established constitutional and oversight bodies, namely, the Auditor-General, the Public Protector, the Public Service Commission and the Independent Police Investigative Directorate (IPID), formerly known as the Independent Complaints Directorate (ICD). In addition, criminal-justice institutions were established to strengthen anti-corruption measures, namely, the South African Police Service (SAPS) Anti-corruption Unit, the National Prosecuting Authority (NPA), the Directorate of Special Operations (DSO) or Scorpions (currently known as the Directorate for Priority Crime Investigation (DPCI) or the Hawks), the Asset Forfeiture Unit (AFU) and the Special Investigating Unit (SIU).<sup>17</sup> It is also essential to point out that apart from the abovementioned anti-corruption institutions and oversight bodies, there exist departmental anti-corruption sections in the public sector that conduct internal and external investigations; they, too, form part of this discussion.

In this article, the roles played by each institution mentioned above are examined in detail in order to establish whether they are able to fulfil their respective mandates. The possible threats and current challenges facing these institutions are also analysed. The article also considers the value of the independence of the anti-corruption institutions in order to determine whether they are able to function without any political interference from political office-bearers. This article argues that, in order to be effective, the anti-corruption institutions should be fully independent, adequately resourced and free from any form of political interference.

## **Constitutional Mandate and Oversight Bodies**

The Constitution of the Republic of South Africa, 1996,<sup>18</sup> provides for the establishment of various oversight bodies that play a central role in the fight against corruption within the public sector. While the roles of these institutions are seen as pivotal in the fight against corruption, it is necessary to assess or examine the role of each institution in isolation in order to assess its significance in dealing with corruption in government departments. The survey begins with the Auditor-General.

### **The Auditor-General**

The office of the Auditor-General was established in terms of section 181 of the South African Constitution.<sup>19</sup> This office is as an independent institution that should function

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<sup>16</sup> See Naidoo and Jackson (n 9) 4.

<sup>17</sup> Office of the Public Service Commission, 'A Review of South Africa's National Anti-corruption Agencies' (2001) 2.

<sup>18</sup> Act 108 of 1996.

<sup>19</sup> Section 181 of the Constitution of South Africa, 1996.

without any interference that could disrupt its operations.<sup>20</sup> The Auditor-General has the powers to audit, inspect and write a report on the accounts, financial statements and management of all the provincial and national departments, local governments or any other public institution.<sup>21</sup> This role is essential in ensuring that there are checks and balances in the financial management and administration of each government institution. In essence, it is necessary to ensure the meticulous use of state funds and resources. Regular inspections and audits sensitise the accounting officers to avoiding irregular and wasteful or fruitless expenditure.

The Auditor-General functions in partnership with Criminal Justice System (CJS) agencies when the need to conduct any criminal inquiry and possible prosecution arises from an audit.<sup>22</sup> Besides, the Auditor-General accounts to the parliament only and its reports are scrutinised by the Standing Committee on Public Accounts (SCOPA). This indicates that SCOPA plays a significant role in the control of financial misappropriation in South Africa, particularly corruption.<sup>23</sup> At the same time, it suggests that the members of the committee should be able to perform their functions without fear, favour or prejudice. In other words, the members of SCOPA should avoid being partisan in discharging their responsibilities. Moreover, the Auditor-General can adopt proactive and reactive strategies in order to prevent corrupt activities in public institutions. The proactive strategy is intended to prevent commercial or financial malfeasance by cultivating a fraud-conscious culture in public institutions through publications, workshops and national or international initiatives.<sup>24</sup> The reactive strategy suggests that an investigation into an alleged crime is conducted in order to establish the authenticity of a matter. Although the Auditor-General plays an active and important role in the fight against financial malfeasance, the extent of its accessibility to ordinary persons and communities remains a challenge.

## **The Public Protector**

The office of the Public Protector was established in terms of section 181 of the Constitution, while section 182 outlines their functions.<sup>25</sup> The Public Protector is vested with the power to initiate any inquiry into improper or dishonest conduct or corrupt activity pertaining to public money in the public sector.<sup>26</sup> Equally importantly, the Public Protector may investigate allegations of corruption as part of its constitutional

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<sup>20</sup> See Office of the Public Service Commission (n 17) 11–12.

<sup>21</sup> See Madonsela (n 15) 10.

<sup>22</sup> Tryna van Niekerk and Basie Olivier, 'Enhancing Anticorruption Strategies in promoting Good Governance and Sound Ethics in the South African Public Sector' (2012) *Tydskrif vir Christelike Wetenskap* 143.

<sup>23</sup> Van Niekerk and Olivier (n 22).

<sup>24</sup> See Office of the Public Service Commission (n 17) 14.

<sup>25</sup> Section 182 of the Constitution.

<sup>26</sup> See Office of the Public Service Commission (n 17) 18.

mandate. For instance, in January 2016, the leader of United Democratic Movement (UDM), Bantu Holomisa, registered a formal complaint with the Public Protector following allegations that an amount of R40 million had been channelled from a Public Investment Corporation account to the African National Congress (ANC) in order to pay the salaries of the party's staff members and fund its 104th anniversary celebrations, which were held in January 2016 in Rustenburg.<sup>27</sup>

Furthermore, the Public Protector is an independent entity and is expected to undertake all its responsibilities without prejudice, fear or favour. Having said this, the Public Protector does not represent any person or government institution during the course of its investigation into any matter that falls within its jurisdiction in order to arrive at an objective and independent finding or conclusion.<sup>28</sup>

Although the Public Protector has investigative powers to probe corrupt activities in the public institutions, it does not have the power to arrest or instigate a criminal action on its own. Therefore, in circumstances where the Public Protector considers that criminal action should be taken against an offending party, the matter is referred to the CJS to deal with the criminal matter.<sup>29</sup> This requires great cooperation between the referring institution and the receiving office such as the SAPS, the NPA and the SIU. The failure of any of these agencies to share the necessary information relating to a particular case may result in the non-prosecution of the offenders.

Furthermore, no person should interfere in or disrupt the activities of the Public Protector.<sup>30</sup> This important clause should be observed by all the citizens of South Africa, including the political office-bearers. The observation of this provision could result in the appropriate implementation of the recommendations of the Public Protector whenever it reports back to parliament after an inquiry. Prior to the year 2008, the office of the Public Protector reported 100 per cent implementation of its recommendations after investigations into cases had been reported.<sup>31</sup> This success rate can be achieved when an institution such as the Public Protector is well supported by the government of the day and where the rule of law is observed unconditionally. Furthermore, the Public Protector<sup>32</sup> indicates that there is approximately only 50 per cent compliance with the

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<sup>27</sup> Genevieve Quintal, 'You can't trust the ANC with Workers' Money – Holomisa' *News24* (20 January 2016) <<http://www.news24.com/SouthAfrica/News/you-cant-trust-the-anc-with-workers-money-holomisa-20160120>> accessed 1 November 2016.

<sup>28</sup> Public Protector South Africa, 'History and Background to the Office of the Public Protector' <<http://www.pprotect.org/about-us/history-background.asp>> accessed 31 July 2014.

<sup>29</sup> Department of Public Service and Administration (DPSA), 'Towards a Fifteen Year Review: Assessing the Effectiveness of the Anti-corruption' (2008) 19.

<sup>30</sup> Public Protector South Africa (n 28).

<sup>31</sup> See DPSA (n 29) 20.

<sup>32</sup> Public Protector of South Africa, 'Public Protector Vision 2020: Strategic Plan 2016–2021 – Annual Performance Plan 2016–2017' (2016) 26.

implementation of remedial actions by the state organs. This could be attributed to an erroneously held view that the recommendations of the Public Protector are not binding. However, the Constitutional Court reaffirmed the powers of the Public Protector in *Economic Freedom Fighters v Speaker of the National Assembly*,<sup>33</sup> by stating that the remedial actions or recommendations have a legal effect and are binding. This followed after a series of attempts by President Jacob Zuma to avoid paying back a portion of the money expended in connection with non-security upgrades at his Nkandla private residence. In the light of this case, the success of the Public Protector is evident not only in the fight against corruption but also in the promotion of good governance and ethical leadership.

## **The Public Service Commission**

Section 196 of the Constitution provides for the establishment of the Public Service Commission (PSC), which should be impartial and independent in its operations.<sup>34</sup> According to Madonsela,<sup>35</sup> the PSC has the responsibility to ‘promote high standards of professional ethics in the public service; investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service’. Efforts to instil a culture of adherence to certain ethical codes or standards could be useful in curbing the levels of corruption in the public-sector institutions. In addition, the PSC is responsible for administering the anti-corruption hotline which was launched in 2004 with the intention of encouraging the citizenry to report corrupt activities which occur in the public sector by guaranteeing the reporters a degree of anonymity when reporting such activities.<sup>36</sup>

## **The Independent Police Investigative Directorate**

The Independent Police Investigative Directorate (IPID) replaced the Independent Complaints Directorate (ICD) with effect from 1 April 2012, when the ICD was transformed from being a complaint-driven institution to an investigation-driven body.<sup>37</sup> Section 3 of the IPID Act 1 of 2011 provides for the establishment of the IPID.<sup>38</sup> This provision is in line with the provisions of section 206(6) of the Constitution.<sup>39</sup> According to section 28(1)(g) of the IPID Act, the IPID is entrusted with the powers to investigate corruption in the police domain.<sup>40</sup> The IPID<sup>41</sup> states that addressing corruption within the SAPS and the Metropolitan Police Service (MPS) remains a

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<sup>33</sup> [2016] ZACC 11 para 76.

<sup>34</sup> Section 196 of the Constitution.

<sup>35</sup> See Madonsela (n 15) 12.

<sup>36</sup> See Van Niekerk and Olivier (n 22) 143–144.

<sup>37</sup> Independent Police Investigative Directorate (IPID), ‘Annual Report 2012/2013’ (2013) x.

<sup>38</sup> IPID Act 1 of 2011.

<sup>39</sup> Section 206 of the Constitution.

<sup>40</sup> Section 28 (1) (g) of the Independent Police Investigative Directorate Act 1 of 2011.

<sup>41</sup> See IPID (n 37) 30.

difficult task owing to inadequate control mechanisms within the SAPS and MPS, which could create opportunities for corruption. In order for the IPID to fulfil its mandate, it is imperative to ensure that there is maximum cooperation between this investigative body, the SAPS and the NPA.

The IPID can make recommendations on cases referred to the NPA for decision to prosecute,<sup>42</sup> and it can also make recommendations to the SAPS regarding the disciplinary actions that can be initiated against an errant member or employee.<sup>43</sup> Cases referred to the NPA or courts for prosecution could take an average of two years to finalise.<sup>44</sup> The speed at which the IPID is expected to resolve corruption cases could be affected by the prolonged time taken by the courts to deal with such cases.

A total of 120 corruption cases were recorded in the 2012/2013 financial year, of which 90 (75 per cent) incidents were related to extortion or soliciting a bribe.<sup>45</sup> KwaZulu-Natal province was responsible for 56 (47 per cent) corruption incidents in that year, followed by Free State province at 12 per cent.<sup>46</sup> During this period, two members of SAPS were dismissed and 48 members were acquitted.<sup>47</sup> The acquittals in corruption cases could be due to unsubstantiated information or allegations against the SAPS/MPS members. Similarly, in the 2013/2014 period 84 corruption cases were reported: KwaZulu-Natal province recorded a decline of only 30 corruption cases from the previous year, whereas Free State province accounted for 10 incidents of corruption.<sup>48</sup> Furthermore, an 11 per cent increase in corruption cases occurred in the 2014/2015 financial year, which set the overall statistics for that period at 93 corruption cases. KwaZulu-Natal province led the other eight provinces with 23 incidents of corruption, although the figure was a decline from the preceding financial year. Also, Gauteng province took the second position with 21 incidents of corruption, which was a sharp increase from 12 incidents a year earlier.<sup>49</sup>

With regard to the issue of acquittals alluded to above, it is vital for the IPID to collect relevant information pertaining to the cases, although this can be complicated by the fact that there could be a need to obtain witness statements from SAPS/MPS members who may not be fully cooperative. The relationship between the lower-ranking staff in

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<sup>42</sup> *ibid* 73.

<sup>43</sup> IPID, 'Lodging a Complaint' <<http://www.ipid.gov.za/lodge-complaints/lodge.asp>> accessed 31 July 2014.

<sup>44</sup> See IPID (n 37) 73.

<sup>45</sup> IPID (n 37) 31.

<sup>46</sup> *ibid*.

<sup>47</sup> IPID (n 37) 55–60.

<sup>48</sup> *ibid* 59.

<sup>49</sup> *ibid*.



the SAPS/MPS and the IPID is characterised by hostility and mutual distrust.<sup>50</sup> An obligation to report on, act on or respond to the recommendations and cooperate with the IPID is placed on members of the SAPS/MPS by the IPID Act.<sup>51</sup> In this regard, Burger and Adonis<sup>52</sup> recommend that caution should be exercised to ensure that the recommendations are not compulsory but discretionary.

The work of the constitutional and oversight bodies in the fight against corruption in South Africa can be difficult without the necessary support of the agencies in the CJS. To this end, and because an investigation of the role of a multi-agency approach is of importance, these institutions are assessed in the next section.

## **Criminal Justice System Institutions**

The CJS institutions are the anti-corruption institutions tasked with the investigation, arrest and prosecution of corrupt activities.<sup>53</sup> These institutions play a significant role in supporting the constitutional and oversight bodies when they refer cases for investigation, arrest and prosecution of the offending parties.

### **South African Police Service Anti-corruption Unit**

The SAPS Anti-Corruption Unit was formed in 1996 with the purpose of rooting out the corruption which was rife in the SAPS.<sup>54</sup> Surprisingly, in 2002, the SAPS dissolved the Anti-corruption Unit and announced its merger with the Organised Crime Unit.<sup>55</sup> Newham and Gomomo<sup>56</sup> argue that the dissolution of the unit in question left questions unanswered as to why it was closed because it had had a good track record in the fight against corruption within the SAPS. This led to suggestions that the unit was overly independent and pursued investigations against police leadership. In addition, it was also reported that the unit was not representative of the population of South Africa, hence it pursued cases mainly against Africans within the SAPS.<sup>57</sup>

On 11 July 2013, however, the SAPS National Commissioner, General Riah Phiyega, announced the relaunch of the SAPS Anti-corruption Unit, which would be charged

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<sup>50</sup> Johan Burger and Cyril Adonis, 'A Watchdog without Teeth? The Independent Complaints Directorate' (2008) 24 SA Crime Quarterly 29.

<sup>51</sup> 'Lodging a Complaint' (n 43).

<sup>52</sup> See Burger and Adonis (n 50) 33.

<sup>53</sup> See Van Niekerk and Olivier (n 22) 140.

<sup>54</sup> Gareth Newham and Lulama Gomomo, 'Bad Cops get a Break. The Closure of the SAPS Anti-corruption Unit' (2003) 4 SA Crime Quarterly 5.

<sup>55</sup> See Van Niekerk and Olivier (n 22) 140.

<sup>56</sup> See Newham and Gomomo (n 54) 8.

<sup>57</sup> *ibid* 9.

with a similar mandate as that when the unit was initially formed.<sup>58</sup> It is not yet known whether the reasons which led to its previous dissolution were considered. It is also not yet clear whether the reasons for its initial dissolution would not be the reasons that will necessitate the closure of the unit for the second time. It can be argued that if the reasons that led to the demise of the unit are not clarified and dealt with, the unit could suffer a similar fate and find it very difficult to operate and fulfil its mandate.

### **The National Prosecuting Authority**

The NPA was established in terms of the Constitution, which requires the formation of a single national prosecuting authority.<sup>59</sup> The NPA comprises the National Director as well as the offices of the prosecuting authority located at each of the High Courts.<sup>60</sup> Furthermore, the prosecuting authority consists of the National Director, Deputy National Director, Directors, Deputy Directors and prosecutors.<sup>61</sup> As a matter of fact, the NPA plays an important role in the fight against corruption because it is charged with the task of prosecuting offenders implicated or involved in corrupt activities.<sup>62</sup> The NPA can decide on which matters to prosecute based on the recommendations of the CJS agencies and the constitutional and oversight bodies such as the SIU and the IPID.<sup>63</sup>

However, care should be exercised when recommendations are considered to avoid claims that the offender is being subjected to premeditated trial or prosecution. At the same time, this should not be construed to imply that the NPA should not solicit information that is required in order to conduct a fair trial or prosecution. There should be clear restrictions in terms of the information that could be shared among the institutions in a manner that will not render the evidence submitted invalid. Of note is the fact that the NPA consists of the following six business units: National Prosecution Service (NPS), Asset Forfeiture Unit (AFU), Specialised Commercial Crime Unit (SCCU), Office for Witness Protection (OWP), Priority Crimes Litigation Unit (PCLU) and Sexual Offences and Community Affairs (SOCA). For the purposes of this article, only the NPS's and the AFU's roles are assessed.

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<sup>58</sup> South African Police Service (SAPS), 'SAPS Anti-corruption Unit to be launched – Riah Phiyega' (2013) <<http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71654?oid=3915555>> accessed 30 July 2014.

<sup>59</sup> Section 179(1)(a) of the Constitution.

<sup>60</sup> Section 3(a)–(b) of the National Prosecuting Authority Act 32 of 1998.

<sup>61</sup> Section 4(a)–(e) of the National Prosecuting Authority Act 32 of 1998.

<sup>62</sup> See Naidoo and Jackson (n 9) 15.

<sup>63</sup> See Van Niekerk and Olivier (n 22) 141; see Independent Complaint Directorate (n 37) 73.

## **National Prosecution Service**

The NPS has offices in each of the nine High Court divisions in South Africa, and each of these offices is under the leadership of the DPP.<sup>64</sup> In addition, the staff complement of the NPS comprises the deputy director of public prosecutions, state advocates, prosecutors and administrative personnel.<sup>65</sup> In this regard, it is the unquestionable responsibility of the DPP to ensure that the performance and actions of the deputy directors, state advocates, chief prosecutors and prosecutors are well managed and coordinated.<sup>66</sup> In other words, the activities of the deputy directors are closely monitored so as to ensure smooth operations relating to prosecutorial functions. In this sense, the NPS is charged with the responsibility of ‘providing efficient, effective and credible prosecution services’.<sup>67</sup> In other words, the NPS should ensure that prosecutions are not biased against specific individuals or used to settle any political scores. Therefore, it is essential for the NPS to remain impartial and independent in the performance of its duties. The adoption of a selective approach to prosecutions with a view of victimising should be avoided and prosecutors need to guard against conflict of interests in this regard.

## **Asset Forfeiture Unit**

The AFU is responsible for giving effect to Chapters 5 and 6 of the Prevention of Organised Crime Act 121 of 1998. As a matter of fact, Chapter 5 of this Act provides for the sequestration of assets which are the proceeds of criminal activities, particularly from people found guilty an offence.<sup>68</sup> Similarly, Chapter 6 of the Act ‘provided for the civil forfeiture of assets that are proceeds of crime involved in commission of crime through a civil process that is not dependent of criminal prosecutions’. Therefore, these provisions suggest that the NPA, through the AFU, can freeze and sequester the assets that are considered to be the proceeds of criminal or corrupt activities. According to Van Niekerk and Olivier,<sup>69</sup> the AFU is having a substantial impact on the fight against corruption: it has, for instance, managed to freeze assets valued at more than R3,35 billion in more than 1 700 cases between 2001 and 2010. An approach of this nature could be a deterrent to those who view their positions in the public sector as an avenue for raising additional personal income. The challenge experienced by the AFU in discharging its duties is that some of the affluent and influential criminals exploit technicalities or the absence of clarity in the law through litigation by using the services

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<sup>64</sup> Jens Keuthen, ‘The South African Prosecution Service: Linchpin of the South African Criminal Justice System?’ (Master’s dissertation, University of Cape Town 2007).

<sup>65</sup> *ibid.*

<sup>66</sup> *ibid.*

<sup>67</sup> National Prosecuting Authority of South Africa (NPA), ‘National Prosecution Service’ (2016). <<https://www.npa.gov.za/node/14>> accessed 6 November 2016.

<sup>68</sup> See DPSA (n 29) 18.

<sup>69</sup> See Van Niekerk and Olivier (n 22) 141.

of some legal pundits to hold on to their ill-acquired assets or riches.<sup>70</sup> In view of this challenge, it is crucial to prevent and minimise weaknesses when dealing with cases that involve the sequestration of ill-gotten property. In essence, it is important to conduct a thorough investigation, collect sufficient data pertaining to the case under consideration and, where possible, consider further consultation with other anti-corruption institutions.

### **Directorate for Priority Crime Investigation**

The DPCI was established in terms of section 7(1)(a) of the NPA Act 32 of 1998, as amended. Further, the DPCI has the powers to investigate and undertake any activities related to investigations; collect, safeguard and analyse information; and, where it deems fit, initiate criminal proceedings and perform any other relevant duties pertaining to instituting criminal proceedings that relate to the offences or any other criminal or unlawful actions committed in a prearranged manner. It may also initiate criminal proceedings and perform other relevant duties in respect of such other offences or classifications of offences as determined by the president by declaration in the *Gazette*.<sup>71</sup>

The DPCI/the Hawks in the SAPS is the successor to the Directorate of Special Operations (DSO) or Scorpions, which used to operate under the auspices of the NPA.<sup>72</sup> The DPSA<sup>73</sup> emphasises that the cases which were handled by the DSO and sent to court for prosecution resulted in conviction, although the unit achieved fewer convictions in comparison to other institutions. According to Naidoo and Jackson,<sup>74</sup> the DSO was more effective and visible in the fight against corruption. Having stated this, it is not clear whether the newly formed DPCI is able to pursue investigations relating to corruption against prominent political figures in South Africa. In this regard, Madonsela<sup>75</sup> asserts that the DPCI is charged with the responsibility of preventing, combating and investigating organised and commercial crime as well as corrupt activities in both the private and the public sector.

It is critical for the DPCI to be adequately independent in the performance of its core functions,<sup>76</sup> in order to pursue any corruption case without fear or favour, whether it be against politicians or non-politicians. However, when considering the reasons for the demise of its predecessor, the DSO, it is not evident whether the DPCI is an

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<sup>70</sup> NPA, 'Asset Forfeiture Unit' (2016) <<https://www.npa.gov.za/node/13>> accessed 3 November 2016.

<sup>71</sup> Section 7(1)(a) of the National Prosecuting Authority Act 32 of 1998, as amended.

<sup>72</sup> See Madonsela (n 15) 9.

<sup>73</sup> See DPSA (n 29) 18.

<sup>74</sup> See Naidoo and Jackson (n 9) 16.

<sup>75</sup> See Madonsela (n 15) 9.

<sup>76</sup> Joey Berning and Moses Montesh, 'Countering Corruption in South Africa: The Rise and Fall of the Scorpions and Hawks' (2012) 39 SA Crime Quarterly 3.

investigation-driven institution poised to pursue investigations into the corrupt activities of political leaders. Berning and Montesh<sup>77</sup> suggest that the dissolution of the DSO could have been caused by the following reasons: first, pursuing investigations against senior African National Congress (ANC) officials; secondly, the compromised doctrine of the separation of powers, where prosecutors involved in investigations and the analysis of information related to the cases would lead prosecution proceedings, and, thirdly, the assertion that the DSO did not have a clear mandate.

### **The Special Investigation Unit**

The Special Investigation Unit (SIU) is an autonomous statutory institution formed in 2001 with the aim of addressing corruption, fraud and maladministration in the public sector. In fact, it is also tasked with the recovery of government money lost due to corrupt activities.<sup>78</sup> In reporting the success of this unit, Van Niekerk and Olivier<sup>79</sup> state that more than 81 000 fraudulent beneficiaries of the social grants were removed as a result of the investigative efforts of the SIU. In support of this assertion, the Department of Public Service and Administration (DPSA)<sup>80</sup> has indicated that the SIU has had a significant impact by saving millions of rands of public money through its decisive interventions.

Despite its success in the fight against corruption in the public service, the SIU does not have the powers to arrest, detain and prosecute the accused involved in the corrupt activities; instead, it has to draw the attention of the Directorate for Priority Crime Investigation (DPCI) in the SAPS and the NPA to the need to execute these tasks or responsibilities.<sup>81</sup> These institutions also collaborate with the AFU in the NPA, which has the power to sequester assets that are the proceeds of corrupt activities.<sup>82</sup> The fact that the SIU has to obtain the co-operation of other institutions in the performance of its duties could result in delays in the finalisation of cases and reports, as has been the case with the IPID. In addition, delays could be caused by the fact that the other institutions may take time going through the details of the referred case and also considering the legal implications of their actions prior to any possible legal action. In the case of the NPA, the delay could be based on the question of whether to prosecute or not, which could also be determined by available facts or evidence.

The SIU therefore needs to ensure that there is continuous coordination and collaboration that will lead to the relevant information being shared with the relevant stakeholders during the investigation processes. This would ensure that the SIU remains

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<sup>77</sup> Berning and Montesh (n 76) 4.

<sup>78</sup> See DPSA (n 29) 16.

<sup>79</sup> See Van Niekerk and Olivier (n 22) 141.

<sup>80</sup> See DPSA (n 29) 17.

<sup>81</sup> Special Investigating Unit (SIU), 'Special Investigating Unit Annual Report 2012/2013' (2013) 6.

<sup>82</sup> SIU (n 81) 6.

relevant and more effective in the fight against corruption in the public sector. To this end, there is a need for a strong legislative framework to facilitate greater collaboration and anti-corruption initiatives. Some of the legislation is discussed in the next section.

### *Legislative Framework*

A comprehensive post-1994 legislative framework is in place that is essential for fighting corruption in the public sector. The various pieces of legislation are discussed in the subsections below.

#### *Prevention and Combating of Corrupt Activities Act 12 of 2004*

The Prevention and Combating of Corrupt Activities Act (PCCA) was enacted in 2004 although the data regarding its application remain obscure. However, the importance or relevance of this Act lies in the fact that it resolves any confusion around the meaning of corruption as it relates to the actions of public officials in the performance of their daily duties.<sup>83</sup> Moreover, the Act condemns corrupt activities in all their manifestations, in both private- and public-sector institutions. According to Madonsela,<sup>84</sup> the Act gives power to the NDPP to launch investigations against any person who is believed to have unlawfully acquired property or gained financially. It also requires individuals in positions of authority to take decisive action against corrupt activities.<sup>85</sup> Furthermore, the legislation in question gives the courts extraterritorial jurisdiction pertaining to crimes that involve corrupt activities committed outside the borders of South Africa.<sup>86</sup>

#### *Financial Intelligence Centre Act 38 of 2000*

This Act seeks to prevent activities related to money laundering. In this regard, the Act provides for the establishment of the Financial Intelligence Centre. This Financial intelligence Centre plays an important role in preventing money-laundering activities and also provides relevant information on unlawful activities to the law-enforcement agencies.<sup>87</sup> In addition, the Act emphasises the need for financial institutions to report suspicious financial transactions to the Financial Intelligence Centre.<sup>88</sup> In essence, the financial institutions are obliged to report unusual financial transactions, and failure to report may have great negative repercussions.

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<sup>83</sup> See DPSA (n 29) 15.

<sup>84</sup> See Madonsela (n 15) 5.

<sup>85</sup> Madonsela (n 15) 5.

<sup>86</sup> Madonsela (n 15) 5.

<sup>87</sup> Madonsela (n 15) 8.

<sup>88</sup> Madonsela (n 15) 8.

### *Promotion of Administrative Justice Act 3 of 2000*

The Department of Public Service and Administration<sup>89</sup> notes that the Promotion of Administrative Justice Act (PAJA) was introduced to give effect to the constitutional rights to lawful, reasonable and procedurally fair administrative action, and the right to be given an explanation for such action. Nevertheless, these rights could be limited subject to the provisions of the law or the extent that such limitations are in the interests of justice. Despite the significance of the PAJA, most public servants are not fully aware of the provisions of this legislation.<sup>90</sup> Moreover, this legislation seeks to advance transparency, which is an indispensable attribute of any strategy aimed at attaining good governance and combating corruption.

### *Public Finance Management Act 1 of 1999*

The Public Finance Management Act (PFMA) provides that state resources should be used efficiently and effectively. In other words, state resources (that is, both monetary and non-monetary resources) should not be abused or unlawfully used for personal gain or gratification. In this respect, the Act requires the accounting officers in the public sector to ensure that financial risks and misappropriations are minimised or circumvented.<sup>91</sup> This can be realised when there are constant audits and proper financial controls. Similarly, procurement practices have to be fair, transparent and corruption free.

### *Protected Disclosure Act 26 of 2000*

The primary object of the Protected Disclosure Act (PDA) is to create an environment within which employees will be at liberty to report any unethical conduct without fear of victimisation by any other person.<sup>92</sup> In essence, the Act makes provision for the protection of whistle-blowers who expose unlawful and corrupt activities in the public or private sector. Of greater concern is the concern that employees are not certain about the extent of protection they are likely to receive after they disclose sensitive yet vital information relating to unethical behaviour in the workplace.<sup>93</sup>

### *Prevention of Organised Crime Act 121 of 1998*

This Act makes provision for the following: that business owners have to report criminal activities once they become aware of them; it criminalises affiliation to criminal syndicates and offering help to commit crime; and the forfeiture of property used in committing criminal activities.<sup>94</sup> The provisions of this Act demonstrate that fighting

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<sup>89</sup> See DPSA (n 29) 14.

<sup>90</sup> DPSA (n 29).

<sup>91</sup> See Madonsela (n 15) 7.

<sup>92</sup> See DPSA (n 29) 13.

<sup>93</sup> DPSA (n 29) 14.

<sup>94</sup> See Madonsela (n 15) 6.

crime or corruption requires concerted efforts by both ordinary citizens and law-enforcement institutions.

### *Promotion of Access to Information Act 2 of 2000*

The primary aim of the Promotion of Access to Information Act (PAIA) is to advance access to information as articulated in section 32 of the Constitution. At the same time, it is the object of this Act to promote a culture of transparency and accountability in the public sector.<sup>95</sup> To be more specific, this relates to the information in state custody that is relevant to the exercise or protection of the rights of the citizens.<sup>96</sup> Having said this, access to information will present an opportunity for the citizenry to hold public office-bearers accountable for their actions and, to some extent, enable corruption to be exposed in public institutions. Despite a myriad of legislation that grants powers to the anti-corruption institutions to function efficiently, however, some major constraints face the anti-corruption institutions. These are outlined below.

### **Constraints facing the Anti-corruption Institutions**

The anti-corruption institutions in South Africa are faced with myriad challenges for which there are no immediate solutions. These challenges include, inter alia: a lack of resources, inappropriate co-ordination, inadequate independence, limited powers, insufficient protection for whistle-blowers and a lack of education on corruption. These identified challenges are analysed separately below.

#### *Lack of Resources*

The scarcity of resources is a major concern for the anti-corruption institutions.<sup>97</sup> The Department of Public Service and Administration (DPSA)<sup>98</sup> indicates that insufficient human resources and limited budget are among the main resource constraints facing these institutions. The fight against corruption requires adequate resources, but the challenge is that this initiative competes for limited resources with other government priorities such as job creation.<sup>99</sup> While this is a fact, the South African anti-corruption institutions will find it difficult to deal with a high incidence of corruption if they are not sufficiently resourced or funded. It is also vital for these institutions to attract and retain experienced staff who can make significant contributions in the fight against corruption in the public sector. As a case in point, the office of the Public Protector was denied an additional budget of R200 million in the year 2015. This could mean that the

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<sup>95</sup> See DPSA (n 29) 14.

<sup>96</sup> See Madonsela (n 15) 7.

<sup>97</sup> Lala Camerer, 'Tackling the Multi-headed Dragon – Single Anticorruption Agency in South Africa' ISS (1999) 2.

<sup>98</sup> See DPSA (n 29) 4.

<sup>99</sup> Soma Pillay, 'Corruption – the Challenge to Good Governance: A South African Perspective' (2004) 17 *International Journal of Public Sector Management* 599.



Public Protector would struggle to discharge their responsibilities associated with the 325 corruption-related cases on their books. Indeed, the Public Protector had to close five offices in the following areas in South Africa: Newcastle, Port Elizabeth, Siyabuswa, Vryburg and Vryheid.<sup>100</sup> As a consequence, the physical access of the services of the Public Protector in the regions concerned was tremendously curtailed.<sup>101</sup> As a result, people in remote areas were greatly disadvantaged, since this meant that it would be difficult for them to access the services of the Public Protector.<sup>102</sup>

### *Inappropriate Coordination*

According to Webb,<sup>103</sup> there is no proper co-ordination among the various anti-corruption institutions in South Africa. The DSO, now the DPCI, had found it easy to conduct investigations into the matters which were investigated by the SAPS.<sup>104</sup> In some instances, the DSO collected intelligence information without having a legal mandate to do so, which amounted to the contravention of sections 1, 2 and 3 of the National Intelligence Act 39 of 1994.<sup>105</sup> This could also be cited as one of the factors that led to the dissolution of the Scorpions.

The DPSA<sup>106</sup> underscores the importance of co-ordinating the anti-corruption activities within the public-sector institutions. Moreover, the anti-corruption institutions should have clear lines of responsibility and areas of focus. According to Madonsela,<sup>107</sup> a lack of co-ordination between the anti-corruption institutions impedes their effective operation. Therefore, there is a need to ensure harmonious relations and co-operation that will create the enabling environment in which their operations will function effectively. Pillay<sup>108</sup> emphasises the fact that effective co-ordination could result in the efficient usage of resources. This argument could be applied to situations where duplication in investigations takes place as a result of overlaps caused by institutional mandates being too broad. With regard to the issue of inappropriate co-ordination, Reeves notes:<sup>109</sup>

The main challenge of institutions mandated to fight corruption through law enforcement is to specify their substantive jurisdiction (offences falling under their

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<sup>100</sup> eNCA, 'Public Protector Forced to Close Offices due to Lack of Cash' <<https://www.enca.com/south-africa/public-protector-forced-close-offices-due-lack-cash>> accessed 29 January 2016.

<sup>101</sup> Public Protector South Africa, 'Annual Report 2014/15' (2015) 50.

<sup>102</sup> Public Protector South Africa (n 101) 51.

<sup>103</sup> See Webb (n 12) 156.

<sup>104</sup> See Berning and Montesh (n 76) 6.

<sup>105</sup> Berning and Montesh (n 76) 7.

<sup>106</sup> See DPSA (n 29) 23.

<sup>107</sup> See Madonsela (n 15) 15.

<sup>108</sup> See Pillay (n 99) 602.

<sup>109</sup> Christopher Reeves, 'After *Glenister*: The Case for a New Dedicated Agency' (2012) 39 SA Crime Quarterly 25.

competence), to avoid the conflict of jurisdictions with other law enforcement agencies and to ensure efficient cooperation and exchange of information ...

In order to resolve the challenges pertaining to coordination, an Anti-Corruption Coordination Committee (ACCC) was established in accordance with Strategic Consideration 2(b) of the Public Service Anti-corruption Strategy of 2002 to ensure that the anti-corruption activities within the public sector were well coordinated and integrated.<sup>110</sup> Van Niekerk<sup>111</sup> and Olivier assert that investigating corruption incidents is not the responsibility of the committee, but its core function does entail monitoring and overseeing effective execution of the anti-corruption measures in the public sector. Equally importantly, the committee provides a forum for government departments and institutions to discuss matters relating to the prevention and investigation of corrupt activities.<sup>112</sup> Despite the formation of this committee, though, its success in ensuring effective co-ordination has not yet become clear.

### *Inadequate Independence*

The operational independence of the anti-corruption institutions is a major determinant of their success or failure.<sup>113</sup> In support of this view, Kinnes and Newham<sup>114</sup> argue that political interference compromises the operation of the DPCI within the SAPS. Furthermore, the criminal and irregular conduct by the former police National Commissioner, Bheki Cele, was not sent for further criminal investigation after the Public Protector had reported irregular and illegal conduct on his part. Moreover, the NPA stopped pursuing criminal prosecutions against the former Head of Crime Intelligence (CI), Lieutenant General Richard Mdluli, which relate to corruption charges, under some debatable circumstances. In another case, the head of DPCI was implicated in the illegal expatriation of four Zimbabweans. Subsequently, the head of the directorate, Lieutenant General Anwa Dramat, was unilaterally suspended by the Minister of Police, Nkosinathi Nhleko.<sup>115</sup> In relation to this matter, on 23 January 2015, the North Gauteng High Court delivered a judgment in the case of *Helen Suzman Foundation v Minister of Police*,<sup>116</sup> in which the court ruled that the unilateral decision by the Minister of Police to suspend Dramat was unlawful and invalid.<sup>117</sup> In fact, it seems that the reasons for the suspension were different from the actual main reasons:

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<sup>110</sup> See DPSA (n 10) 14.

<sup>111</sup> See Van Niekerk and Olivier (n 22) 145.

<sup>112</sup> See Madonsela (n 15) 11.

<sup>113</sup> *ibid* 27.

<sup>114</sup> Irvin Kinnes and Gareth Newham, 'Freeing the Hawks. Why an Anti-corruption Agency should not be in the SAPS' (2012) 39 SA Crime Quarterly 35.

<sup>115</sup> Ciaran Ryan, 'What's the Story behind Hawks Chief Anwa Dramat's Suspension?' (2015). <<http://news.acts.co.za/blog/2015/02/whats-the-story-behind-hawks-chief-anwa-dramats-suspension>> accessed 29 January 2016.

<sup>116</sup> (1054/2015) [2015] ZAGPPHC 4 (23 January 2015).

<sup>117</sup> See *Helen Suzman Foundation v Minister of Police* (n 116).

the suspension was a consequence of Dramat's attempt to launch an investigation into a corruption scandal that involved senior politicians.<sup>118</sup>

Public confidence in government institutions tasked with combating corruption could be jeopardised if there are perceptions of inconsistencies in how the institutions operate. The rule of law should be sustained and supported irrespective of the political connections and positions. All the constitutional mandates and oversight bodies as well as the criminal agencies tasked with combating and preventing corrupt activities should be able to function without any political interference. However, to achieve success in the fight against corruption, political will and support for the anti-corruption institutions are essential.<sup>119</sup>

### *Limited Powers*

The anti-corruption institutions should be entrusted with the powers to investigate crime similar to those of the SAPS. They should be authorised to search any building or structure for the purposes of seizing evidence during an inquiry into an alleged crime, and they should be able to arrest, detain and charge the accused persons.<sup>120</sup> These powers would make it possible for the anti-corruption institutions to deal with cases thoroughly while at the same time ensuring that the chain of evidence is not broken. Naidoo and Jackson<sup>121</sup> argue that the anti-corruption agencies should be able to regulate, evaluate and monitor the functions of government institutions, which could further enhance the government's ability to combat and reduce corruption in the public sector. When the anti-corruption agencies are familiar with the internal procedures and processes in government, they should be able to detect corrupt activities at an early stage. Again, when these institutions are restricted in their efforts to access information pertinent to the cases they are investigating, their success in pursuing criminal prosecutions could be minimised for a lack of evidence. Moreover, any attempt to secure evidence without the authority or powers to do so could jeopardise pending cases. This was proved by the Khampepe Commission, which found that the defunct DSO had contravened the National Intelligence Act 39 of 1994, when it collected and analysed intelligence information without any legal mandate to do so.<sup>122</sup>

### *Insufficient Protection Mechanism for Whistle-blowers*

Whistle-blowers are not effectively protected from any form of reprisal after reporting corruption, particularly when such a case is reported by a junior staff member against a senior member in government institutions. Naidoo and Jackson<sup>123</sup> state that senior staff

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<sup>118</sup> See Ryan (n 115).

<sup>119</sup> See Madonsela (n 15) 2.

<sup>120</sup> See Reeves (n 109) 27; see also Camerer (n 97) 3.

<sup>121</sup> See Naidoo and Jackson (n 9) 15.

<sup>122</sup> See Berning and Montesh (n 76) 7.

<sup>123</sup> See Naidoo and Jackson (n 9) 9.

members may tend to intimidate junior staff members for reporting any corrupt acts that occur within an institution. In fact, the major concern regarding whistle-blowing centred on the confidentiality of the identities of those who report corruption, a condition that seems to be lacking. De Maria<sup>124</sup> comments that although the South African government introduced the Protected Disclosure Act 26 of 2000, public servants still find it difficult to expose the corruption prevalent in the public sector, owing to a fear of retribution or reprisal. The anti-corruption institutions in South Africa find it challenging to encourage whistle-blowing, irrespective of guarantees that whistle-blowers will remain anonymous.<sup>125</sup>

### *Lack of Education on Corruption*

South Africa's weakness in the fight against corruption lies in the lack of public education on corruption.<sup>126</sup> This lack of education prevents ordinary members of society from holding government officials accountable for their corrupt acts. Webb<sup>127</sup> maintains that an uneducated society would engender minimal demand for accountability; therefore, the members of society at large need to be sensitised against corruption through awareness campaigns led by the anti-corruption institutions. In support of this view, Madonsela<sup>128</sup> states that in order to deal with corruption, the starting point should be to teach the community about the impact of corruption. The benefit of this approach is the instilling of an in-depth understanding of corruption in community members so that they become intolerant of the corrupt activities of public servants.

## **Conclusion and Recommendations**

From the preceding discussion it is evident that the South African anti-corruption institutions have a significant role to play in the fight against corruption in the public sector. The various reports on their success in dealing with the scourge of corruption bear testimony to the government's intolerant position towards corrupt activities. While evidence suggests that some of the anti-corruption institutions achieved great success in rooting out corruption in the public-sector institutions and departments, it is imperative to ensure that these institutions are provided with the required resources to continue with their good track record. This could lead to an improvement in the effectiveness of all the anti-corruption institutions in reducing corruption.

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<sup>124</sup> William de Maria, 'Whistle-blowers Protection: Is Africa Ready?' (2005) 25 *Public Administration and Development* 223.

<sup>125</sup> See Madonsela (n 15) 16.

<sup>126</sup> See Webb (n 12) 162.

<sup>127</sup> *ibid.*

<sup>128</sup> See Madonsela (n 15) 2.

But although the anti-corruption institutions are achieving varying measures of success, they face a number of constraints or challenges that could make it difficult for them to operate more efficiently. The fact that there is no proper co-ordination among the anti-corruption institution creates an environment in which the sharing of information pertaining to corruption remains difficult, if not impossible. Moreover, this lack of co-ordination leads to overlaps in the institutions' mandates, a weakness that could be addressed by clarifying their respective roles and responsibilities. It is also necessary to consider giving all the anti-corruption institutions the authority to investigate, arrest, detain and charge all the suspects of corruption cases.

Other challenges relate to insufficient protection for whistle-blowers and the fact that public education on corruption in the public sector is not emphasised. When people are taught about the effects of corruption as well as the relevant channels of whistle-blowing, it is more likely that they will report such malfeasance. The South African government needs to find appropriate strategies to protect junior members of staff whenever they report corruption against senior staff members.

The ability of the anti-corruption institutions to combat corrupt activities could be enhanced by the will of the political leaders to support the relevant structures. Having said this, it is imperative for the political leadership in South Africa to respect and uphold the rule of law. The rule of law suggests that everyone is subject to the law of South Africa and, therefore, any findings or recommendations of the anti-corruption institutions should be meticulously considered and fearlessly implemented. The anti-corruption institutions are faced with political interference or influence in the performance of their functions. The political leaders should refrain from interfering with their functions because their interference only serves to compromise and undermine the objectivity and autonomy of these institutions in the carrying out of their mandates.

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