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EFFECTIVE USE OF LEGAL REMEDIES FOR CORRUPTION

A SOUTH AFRICAN PERSPECTIVE

PRESENTERS:

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A. INTRODUCTION

Traditionally, the typical South African approach to combating corruption has been of a criminal justice nature focused on arrest, trial and incarceration upon conviction.

Corruption in South Africa has hardly been the easiest offence to prove. Historically and perhaps perceptively, practitioners such as investigators and prosecutors have interpreted legislation as limiting the offence of bribery to transactions between persons in the employ of the State and private persons.

The Corruption Act 94 of 1992 that came into operation in South Africa on 3 July 1992 had the comprehensive and unequivocal effect of casting the net much wider, allowing for prosecution in the case of transactions between private persons.

Arguably, this broader net will increase the probability of success in the application of the aforementioned criminal justice approach to combating corruption.

Up until October 1995, based on a report by the South African Justice College, there were no court decisions that could enlighten the practitioner on the interpretation of the Corruption Act. Today, the situation is a lot more positive although there is general consensus amongst legal practitioners that corruption is still not an easy offence to prove.

Taking the above into account, a more comprehensive approach extending beyond a criminal justice focus is therefore necessary to effectively combat corruption. One specific approach in pursuit of this comprehensiveness is the application of additional legal remedies, other than purely criminal prosecution.

This paper is designed to give a practical South African investigative perspective on effective legal remedies that could aid in the combating of corruption. As such it is also focused on giving a holistic approach to remedies in general which extends beyond the typical criminal justice approach.

B. REMEDIES IN GENERAL

From an investigative context, remedies in general include the following:

- Recourse through the application of criminal law;
- Remedies through civil law;
- Administrative steps, for example application of labour law practices, resolution of issues through mutual agreement, etcetera;
- Pro-active outputs, such as implementation of preventative and / or corrective measures.

The following is an illustration of a comprehensive perspective to remedies in general, stemming from a typical investigation into a corruption scenario investigation:

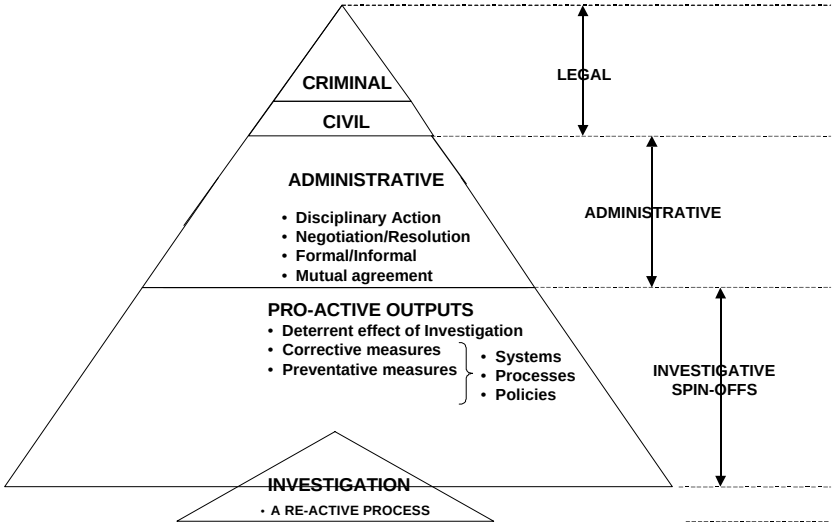

Figure 1: An illustrated perspective of remedies

Considering that this paper is aimed at primarily addressing legal remedies to combat corruption, the focus will now be on the top two tiers of *Figure 1*, namely remedies in criminal law and civil law. Before looking at these remedies, it is relevant to first give a definition of corruption within the South African context.

C. CORRUPTION

The statutory offence of corruption in terms of the Corruption Act of 1992 is created in section 1 of the said Act. This Act replaced the common law crime of bribery.

There are two types of corruption created in this section, namely active and passive corruption.

In simple terms, corruption is committed by:

- An employee who fails or agrees not to carry out his / her duty for benefit;
- A person who induces an employee to agree not carry out his / her duty for benefit.

In its most elementary form, corruption occurs when any undue compensation or benefit is given to a person for any conduct or omission related to his / her duty for which he / she is paid a salary.

Active corruption is created in section 1(1)(a) and is committed by the *corruptor*. The *corruptor* is the person who initiates the advance and makes the payment. Section 1(1)(a)(ii) refers to past corruption and section 1(1)(a)(i) to future corruption.

Passive corruption is created in section 1(1)(b) and is committed by the corruptee. The *corruptee* is the person who receives the payment and delivers the service. Section 1(1)(b) also refers to past corruption (section 1(1)(b)(ii)) and future corruption (section 1(1)(b)(i)).

D. REMEDIES THROUGH CRIMINAL LAW

D1 The Players

The following are some of the players in the fight against corruption within South Africa:

- Various departments within the South African Police Service (SAPS)
  - Anti-Corruption Units
  - Commercial Crime Units
  - General Detective Units

- Various offices operating within the Department of Justice and under the auspices of the Office of the National Director of Public Prosecutions, namely:
  - Investigating Directorate: Serious Economic Offences (IDSEO)
  - Special Investigations Directorate (Scorpions)
  - Asset Forfeiture Unit

- Independent Complaints Directorate

- Units and Tribunals established under the Special Investigating Units and Special Tribunals Act, Act 74 of 1996.
  - Heath Commission
  - Presidential Task Unit

- National Intelligence Agency

- Investigative departments within public enterprises and other government departments

- Auditing firms with forensic investigative capacities

- Specialised forensic investigative firms

- The Public Protector

- The Auditor-General

D2. The Remedies

Prosecution

The most fundamental remedy in criminal law is that of prosecution of the corruptor and / or the corruptee. South African case law on successful corruption prosecutions are *inter alia* the following:

- S v Mtsi 1995 (2) SACR 206 (W): a bank teller was convicted for contravention of section 1(b)(i) of the Corruption Act of 1992 after receiving R3500 for supplying the account numbers of two customers to an outsider. The outsider used this information to draw R36 000 from these accounts. The teller's initial sentence after conviction was four years imprisonment, which was later set aside on appeal and replaced with a suspended sentence.

- S v Davids 1998 (2) SACR 313 (C): an accused prison warder was convicted of corruption in terms of s 1(1)(b) of the Corruption Act of 1992 for agreeing to accept a bribe from a prisoner in return for assisting his escape. The warder was sentenced to four years imprisonment.

- In the more recent matter of S V Mogotsi 1999 (1) SACR 604 (W) a traffic officer accepted R100 from a motorist for cancelling a traffic summons and was found guilty of corruption. He received a sentence of four years imprisonment wholly suspended for five years.

As can be seen from the above, in South African case law, matters that have appeared before the courts are mostly elementary in nature. It appears that few of the higher profile and more complex corruption scenarios are prosecuted with success. The reason for this lies in the strongest criticism of the Corruption Act of 1992, namely that the act makes provision for prosecution of both corruptor and corruptee. Practically, this leaves even the potential witness susceptible to prosecution. Who is then left to testify?

Section 204 of the Criminal Procedure Act, Act 51 of 1977 (CPA) does, however, make provision for the indemnification of witnesses from prosecution. Section 204 provides that the Court may, on request by the prosecution, indemnify a witness from prosecution if the witness testifies frankly and honestly. However, in practice one would not, from an ethical perspective, resort to this option too frequently.

Additional tools to facilitate criminal law remedies

Various statutory provisions exist for financial recovery on behalf of the private citizen as well as the State in response to corruption.

Before reflecting upon financial recovery aspects, it is first necessary to look at certain legislative tools that can assist the investigator in gathering evidence when pursuing the route of criminal law as a remedy. Before embarking on this route, it is perhaps appropriate to also take into account that in many corruption scenarios, a great deal of the evidence involved is likely to be of a documentary nature.

In SA case law, a document has been defined in Seccombe v Attorney General 1919 TPD 270 as ”any written thing capable of being evidence” and could include film and videotapes. The Civil Proceedings Act 25 of 1965 includes as a definition for a document ”any book, map, plan, drawing or portrait”.

Section 225(5) of the CPA provides that a document includes ”any device by which information is recorded or stored”. Section 246 and 247 of the CPA adds a newspaper, magazine or book, pamphlet, letter, list, record, placard or poster.

There are three different categories of documents:

- *Public*

  This is a document to which the public has a right of access and is drafted by a public official, in the execution of his duties, and is intended for public use.

- *Official*

  This is a document under the control and custody of a State official and is usually a public document.

- *Private*

  This could be described as a document that is not a public document.

Search and Seizure

As far as search and seizure is concerned, this aspect is generally provided for in South African law in the following legislation, amongst others:

- Sections 19 - 37 of the Criminal Procedure Act, Act 51 of 1977
- South African Police Service Act, Act 68 of 1995
- South African Police Services Amendment Act, Act 83 of 1998
- Interception and Monitoring Prohibition Act, Act 127 of 1992
- Control of Access to Public Premises and Vehicles Act, Act 53 of 1985
- Special Investigating Units and Special Tribunals Act, Act 74 of 1996.
- National Prosecuting Authority Act, Act 32 of 1998
- Prevention of Organised Crime Act, Act 121 of 1998

It is important, however, to note that Chapter 2 (Bill of Human Rights) of the Constitution of South Africa, Act 108 of 1996, has to be continuously considered when applying the above-mentioned or other appropriate legislation. The relevant sections of the Constitution impacting on investigators in their day to day tasks will be:

- Section 8(2) : Application – it is important to note here that "the Bill of

Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of the duty imposed by the right".

- Section 9 : Right to Equality
- Section 10 : Right to Human Dignity
- Section 12 : Right to security of the person
- Section 14 : Right to privacy
- Section 23 : Labour Relations
- Section 25 : Property
- Section 32 : Access to information
- Section 33 : Just Administrative Action
- Section 35 : Rights of arrested, detained, accused persons – e.g. right to a fair trial
- Section 36 : Limitations of Rights

An important cautionary note in the application of search and seizure legislation is that it is generally, but not exclusively, conducted by the SAPS under search warrants issued in terms of section 21 of the CPA. Articles that can be seized are mentioned in section 20 of the CPA.

Section 24 of the CPA provides that private parties (for example a private investigator), may seize items such as stolen stock or produce, articles contravening law relating to intoxicating liquor, dependence-producing drugs, arms and ammunition or explosives. It is a prerequisite that the aforementioned articles must be on a premises of which the private party is lawfully in charge.

In terms of section 205 of the CPA a person who can give material or relevant information may be obliged to appear before court and be questioned by the Director of Public Prosecutions or the Public Prosecutor with regard to this information. In practice, this section is often used in the investigation of crimes of a financial nature to secure documentary evidence such as bank statements and records of financial transactions.

It is important to note that the majority of players mentioned above are created by statute. They also have, in terms of the statute, the power to apply for search warrants and if authorised, to execute search and seizure operations.

Forfeiture, Disposal and Compensation

Sections 30 – 36 and 37(5) of the CPA make provision for forfeiture and disposal of objects seized by the SAPS with the authorisation of the court.

In terms of section 297 of the CPA a court may impose a suspension of a sentence on certain conditions, one of which is compensation.

Because this most directly relates to the subject of legal remedies, we will elaborate in this regard. In accordance with section 297 of the CPA, a court presiding in a criminal matter may, after conviction of an accused, pass a sentence of imprisonment and / or a fine, or imprisonment and suspend the sentence on condition that the accused compensates the injured party. The requirements for this approach are the following:

- The accused must be convicted of the relevant offence;
- The compensation may be divided into payments, but the period may not exceed the maximum period allowed for suspension, currently five years;

- This is a sentence option - it is therefor dictated that the sole discretion lies with the presiding officer. The parties involved can merely suggest this type of sentence;
- Should the accused be in default, the sentence of imprisonment can be put into operation, and the accused will then be recommitted to serve the remainder of the sentence.

Furthermore, section 300 of the CPA provides for the court before which an accused was convicted of an offence, to award damages to the injured party. The prerequisites for such an order is the following:

- The accused must be found guilty;
- The complainant (injured person) must bring an application, in practice *via* the prosecutor;
- There must be a causal link between the injury or damages suffered and the offence of which the accused has been found guilty;
- The amount awarded may not exceed the amount determined by the Minister by notice in the Government Gazette.

Important to note for the purposes of our next paragraph, is the fact that an order in terms of section 300 has the same effect as a civil judgement of a court with concurrent jurisdiction. Unless the person in whose favour the award has been made renounces the award within sixty days from date of the order, the person

against whom the order was made shall not be liable for any other civil action in respect of the same cause.

A major shortcoming in this legislation, which is currently being amended, is that it rules out any future civil proceedings once the court has made a ruling on a certain set of facts.

D3. The Prevention of Organised Crime Act

Perhaps the most prominent legislation in South Africa in recent times aimed at combating organised crime, which includes corruption, is the Prevention of Organised Crime Act 121 of 1998 that came into operation on 21 January 1999. This act has already been amended twice, in April 1999 and August 1999.

Confiscation

In terms of Section 18(1) of the said Act, a court may, after conviction of an accused (of any offence), and upon application of the prosecutor, enquire into any benefit derived by the accused from the offence(s) of which he is convicted or any criminal activity related to that offence(s). If the court finds that the accused did indeed benefit, it may order that the accused pay the State an appropriate amount.

Section 19 - 22 are designed to assist the court in the determination of the value of the unlawful activities.

In terms of section 23 the confiscation order shall have the effect of a civil judgment for the amount of the order. Failure to comply with the order will, however, constitute a separate offence (section 75).

Restraint orders

For the confiscation order to function effectively, it must be supported by a proactive measure to gain control over property, that may at a later stage have to be realised in order to satisfy a confiscation order. In the absence of such a measure, a defendant will be free to dissipate such property, thereby frustrating the confiscation exercise. Sections 25 and 26 of the Prevention of Organised Crime Act enables a High Court to make a restraint order, prohibiting any person from dealing with the property specified in the order. A restraint order may be granted when a confiscation order has been made but has not yet been effected, or where the High Court is satisfied that a person will be charged with an offence and that it is likely that a confiscation order will be made against him / her (section 25).

In making the restraint order the High Court may require the defendant to disclose certain information in respect of property and the location thereof. A restraint order may be effected by the seizure of the relevant property by a police official (sections 26(8) and 27), or by the appointment of a *curator bonis* in respect of that property (section 28). If there is immovable property that is subject to the restraint order the High Court may order the Registrar of Deeds to make certain endorsements on the title deed of that property (section 29). Failure to comply with the restraint order or any ancillary thereto will constitute an offence (section 75).

Realisation of property

Sections 30 and 32 of the Act provide for the powers of a *curator bonis* to realise any realisable property. Section 31 provides for the application of the money obtained from the realisation of the relevant property. The money should firstly be used to make such payments as the High Court may direct and thereafter for the satisfaction of the confiscation order. In the process of the realisation of property and satisfying the confiscation order, it is necessary to protect the rights of innocent creditors. In order to achieve this, the payments that the High Court may order, may include payments in respect of obligations which were found to have priority when the extent of the realisable property had been determined under section 20.

Recovery of Property

According to section 37 of the Act all proceedings under Chapter 6 are civil proceedings and not criminal proceedings. Further that the rules of evidence applicable in civil proceedings shall apply to proceedings under Chapter 6.

Section 38 - 47 provides for a preservation of property order. Section 38 determines that such a preservation of property order is issued by a High Court upon application by the National Director of Public Prosecutions. It prohibits any person subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property. A High Court shall make such a preservation of property order if there are reasonable grounds to believe that the property concerned is:

- An instrumentality of an offence referred to in Schedule 1 the Act;

- The proceeds of unlawful activities.

Note that no conviction of any offence is required. A High Court may at the same time authorise the seizure of the property concerned by a police official. Section 39 determines that notice of the issue of a preservation of property order must be given to all persons affected thereby. In order to prevent property subject to a preservation of property order from being disposed of or removed contrary to such order, any police official may seize any such property, if he / she has reasonable grounds to believe that such property will be imposed of or removed (section 41).

A *curator bonis* may be appointed by the High Court in respect of property subject to a preservation of property order (section 42). Immovable property is also subject to a preservation of property order (section 43).

Forfeiture of property (section 48 – 57)

Section 48 provides that if a preservation of property order is in force, the National Director of Public Prosecutions may apply to a High Court for an order forfeiting to the State all or any of the property that is subject to the preservation of property order.

Section 50 makes provision for the court to order the forfeiture of property if it finds, on a balance of probabilities, that the property is:

- An instrumentality of a Schedule 1 offence;
- The proceeds of unlawful activities.

E. REMEDIES THROUGH CIVIL LAW

In South African Law civil proceedings are conducted by either:

- Applications by way of a notice of motion;
- Action by way of summons.

Containment

Generally, by application to crime, the term ”containment” refers to the stopping of the crime and preventing it from moving any further. Using criminal law terminology, this could be loosely interpreted to mean ”search and seizure”.

E1. English Perspective: Anton Piller Orders

The jurisdiction to grant an Anton Piller order was first upheld by the Court of Appeal in a case called Anton Piller KG v Manufacturing Process (1976) Ch55.

An Anton Piller order is often described as a civil search warrant. It is a draconian order which requires the defendant to permit the plaintiff’s representatives (including the plaintiff’s attorney) to enter the defendant’s premises for the purpose of searching for and removing into safe custody articles, documents, evidence, assets or other material as specified in the order. The order generally includes a
range of other mandatory orders requiring the defendant to provide other assistance to make the search effective, and to enable the subject matter of the order to be found and removed from the premises. Orders requiring the printing out of information held on

computer and the provision of keys to locked filing cabinets, is a prime example of an Anton Piller order.

The Basis for Anton Piller Relief

Anton Piller relief is an exceptional remedy, only granted in exceptional circumstances. There are effectively four essential preconditions for the making of such an order:

- There must be an extremely strong *prima facie* case on the merits of the plaintiff's claim;
- The damage (potential or actual) that would be suffered if the order were not granted must be very serious for the plaintiff;
- There must be clear evidence that the defendants have in their possession incriminating documents or material and that there is a real possibility that the defendants may destroy such material before any *inter partes* application can be made;
- The harm likely to be caused by the execution of the Anton Piller order to the defendant and his business affairs must not be excessive or out of proportion to the legitimate object of the order.

The plaintiff has to undertake to the Court to issue and serve a writ on the defendant as soon as practicable, as a condition of obtaining the order.

The Court will have particular regard to the fact that the order makes serious inroads into the defendant's civil liberties, such as:

- His right to be heard in his own defence before an order is made against him;

- The right to privacy in his home;
- The right to be protected against unjustified and arbitrary searches and seizures. The Court's approach is not to make an order unless it concludes that, without the order, the plaintiff will suffer a greater injustice than that which the Court will be inflicting on the defendant by making the order.

Anton Piller: South African Perspective

The Anton Piller principle, and the requirements for the operating of such an order, has been applied in various High Court cases in South Africa.

The requirements for an Anton Piller order in terms of the English Law reveals a close parallel with the requirements in terms of the South African Law for a similar order. It is to be observed that these requirements accord with common principles and common logic.

Procedure

The essence of the procedure is twofold:

- Speed
- Secrecy

The aim of the order is preservation of evidence. This aim must be achieved before the incriminating material is removed.

The application is brought by way of a notice of motion requesting *inter alia* the following:

- Dispensing with the forms and service prescribed by the uniform rules of the High Court and that the matter be dealt with as one of urgency;
- That the application be heard *in camera;*
- That the proceedings not be made public until the execution of the order requested.

The notice of motion is based on a founding affidavit of the applicant or a person representing the applicant.

It was decided in the South African High Courts that the object of an Anton Piller order is not to sanction a search for evidence, which might or might not exist and, which might or might not go to found a cause of action.

The object is to preserve specific evidence, which was known to exist and, which *prima facie* constituted vital substantiation of a known case of action, and whose concealment, loss or destruction was feared by the applicant for the order. (The MV Urgupowers of the MV Urgup v Western Bulk Carriers (Australia) (Pty) Ltd and others 1999 (3) SA 500 (C)).

Requirements

The Appellate Division of the High Court decided that Anton Piller orders directed at discovery and preservation of evidence are a part of the South African law. The honourable court held that the applicant, in support of an order obtained in camera and without notice to the respondent, must *prima facie* establish that:

- He has a cause of action against the respondent which he intends to pursue;

- The respondent has in his possession specific (and specified) documents or things which constitute vital evidence in substantiation of the applicant's cause of action (but in respect of which the applicant cannot claim a real or personal right); and
- There exists a real and well founded apprehension that such evidence may be hidden or destroyed, or in some manner be spirited away by the time the case comes to trial or to the stage of discovery.

The honourable court distinguished the Anton Piller order from a rule *nisi* operating as an interim interdict. The Anton Piller grants immediate relief whereas the rule *nisi* contemplates that the relief sought will only be granted at some future date after the respondent has had time to show cause that it should not be granted. (Shoba v Officer Commanding, Temporary Police Camps, Wagendrift Dam 1995 (4) SA 1 (AD).

Failure to comply with order

In the Shoba Case, Corbett CJ stated that "(t)he courts would be careful to ensure that the Anton Piller procedure is not used indiscriminately or as an instrument to harass defendants". To prevent abuse the court should insist on safeguards. These may include an explanatory notice to the respondent and the presence of both a "supervising attorney" and the sheriff. Where a respondent does not comply with an Anton Piller order the sanction for failure is contempt of court.

Disclosure and freezing orders against defendants

E2. The English Perspective: Mareva Injunctions

The first Mareva Injunction was granted by the Court of Appeal in 1975 in the case of Mareva Compania Naviera SA v International Bulkcarriers SA (1975) 2 Lloyd's Rep 509. A Mareva Injunction is an order of the Court, which has the effect of freezing a party's assets, pending the determination of the plaintiff's claim at trial. A Mareva Injunction can also be granted or extended post-judgement, pending enforcement over the defendant's assets. The injunction does not confer on the plaintiff a pre-trial attachment, or any form of security, but it does prevent the defendant from dissipating his assets so as to defeat any later judgement.

An order for a Mareva Injunction will only be granted where the applicant has shown on affidavit that:

- He has a cause of action on the merits which will be pursued before the English Courts, or the Courts of any of the other signatory states to the Brussels or Lugano Conventions (effectively all countries which are in the European Union or European Free Trade Area) or (with effect from 1st April 1997) before the Courts of any other state;
- He has a good arguable case;
- There are assets against which the order will have effect;
- There is a real risk for dissipation of those assets, so as to give rise to the risk that a judgement may go unsatisfied; and
- It is just and convenient to make the order, taking into regard all the surrounding circumstances.

As applications for Mareva Injunctions are almost inevitably made on an *ex parte* basis, the plaintiff is under a duty to give full disclosure of all relevant facts in the supporting affidavit.

Mareva: The South African Perspective

Introduction

The Appellate Division of the High Court of South Africa remarked that it is unacceptable to describe an interlocutory interdict, which has the effect of restraining a respondent from concealing or dissipating assets pending an outcome of an action for damages, as a Mareva Injunction. According to the honourable Grosskopf JA the description of "Mareva type interdict" carries misleading connotations (Knox D'Arcy and Others v Jameson and Others 1996 (4) SA 348 (AD)).

E3. Interdict

The rules relating to the prerequisites for the granting of an interdict are founded upon Roman-Dutch law. The practical application of those rules has been affected by English judgments dealing with injunctions. The English law relating to injunctions is very similar to South African law but there are some important, although discrete, differences.

An interdict is an order of court, ordering the respondent to refrain from doing something or to do something specifically. The first type of order is referred to as a prohibitory interdict and the second type as a mandatory interdict. The distinction has little practical value except that a court, when exercising its discretion whether or not to grant an interdict, will have regard to the fact that it is more difficult to enforce a

mandatory interdict. The requirements for obtaining the two types of interdicts are the same.

Jurisdiction

All courts possess the jurisdiction to grant interdicts. A court will have the same jurisdiction in this respect as it does in other civil proceedings. If the requirements for the granting of an interdict are satisfied by facts within the territorial jurisdiction of a High Court, that court will possess territorial jurisdiction to decide the matter.

Interim interdict

An interim interdict is a court order preserving or restoring the *status quo,* pending the final determination of the rights of the parties. It does not involve a final determination of these rights and does not affect the final determination by the court.

Procedure

An interim interdict is always sought by way of application. The relief sought in the application can be for:

- An interim interdict, pending the outcome of an action instituted or to be instituted; or
- An interim interdict pending the final determination of the application; or
- An interim interdict as an adjunct to a rule *nisi*, calling upon the respondent to show cause upon the return day why the interim interdict should not remain in force pending the outcome of the main application or action.

The requisites for the right to claim an interim interdict are:

- A *prima facie* right;
- A well-grounded apprehension of irreparable harm if the interim relief is not granted and the ultimate relief is eventually granted;
- That the balance of convenience favours the granting of an interim interdict, and
- That the applicant has no other satisfactory remedy.

Final interdict

An interdict is final if the court order is based upon a final determination of the rights of the parties to the litigation. The requisites for the right to claim a final interdict are:

- A clear right;
- An injury actually committed or reasonably apprehended; and
- The absence of similar protection by any other ordinary remedies.

E4. Action proceedings

For the purpose of this paper, and because our focus is on a crime, that is corruption, we will limit our commentary with regard to pleadings which form part of action proceedings. Generally speaking, a pleading is a document which sets out the facts upon which the legal relief a party claims, is based. It is for this reason that the rules require that every pleading must contain a clear and concise statement of the facts upon which the pleader relies for his claim, defense or answer to any pleading, as the

case may be. The pleading must also contain sufficient particularity to enable the opposite party to reply thereto.

Summons

A trial action may be initiated by either a simple or a combined summons. If the claim is in respect of a debt or liquidated demand, a simple summons will suffice but in all other instances a combined summons must be used.

Combined Summons

A combined summons must be used if the claim is not in respect of a debt or liquidated demand. The annexure must contain a statement of the material facts upon which the plaintiff relies. Generally speaking the annexure must set forth:

- The nature of the plaintiff's claim;
- A clear and concise statement of the material facts on which the plaintiff relies for his claim;
- The conclusions of law which the plaintiff is entitled to deduce from the facts stated, and
- The relief claimed.

The summons is followed by various other pleadings, which need not to be dealt with in this paper. It is however important to note that following the intended trial, the court may find in favour of the plaintiff and award the relief sought.

CONCLUSION

Creating a culture of ”non-corruption” will not be easy. The hard line strategy, emphasised by the legislation discussed in this paper, is however commendable and should be supported and enforced.

All aspects of corruption are deplorable and governments, regulatory agencies, law enforcement agencies, the business sector and the public should join efforts to combat it.

Clearly in our modern society with its infinite crime risks that facilitate corruption, perhaps the most effective tool we can bring to bear on this potential nemesis is the application of all available legal remedies. These must be effected through the enforcement of partnerships aimed at applying a holistic multi-disciplinary approach to combating corruption founded on the platform of the REMEDIES IN GENERAL as illustrated in ”*Figure 1*” of this document.

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