

**COMBATTING CORRUPTION AND ECONOMIC CRIME IN AFRICA: AN  
EVALUATION OF THE BOTSWANA DIRECTORATE OF CORRUPTION  
AND ECONOMIC CRIME<sup>1</sup>**

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**Abstract.**

The Botswana Directorate on Corruption and Economic Crime (DCEC) was created in August 1994 against the background of a number of scandals in Botswana's public life. The Directorate is now over five years old. Among its main achievements are its successful orchestration of a campaign among the general public against corruption and a high conviction rate of investigated cases. And, this is against a background of many problems confronting the agency. This article highlights the successes and problems of the Botswana DCEC. In addition, the paper reflects on the relevance of the Botswana experience for other less developed countries (LDCs) and especially those in Africa, which must win the war against corruption if they are to have a good chance of success in improving their countries' development prospects.

**Introduction**

The issue of corruption has come to the centre stage of state reform and governance improvement programmes of many developing countries generally but of African countries in particular in the 1990s. Corruption is regarded by African governments themselves as well as many development partners as a serious problem and is rated in the same category as the AIDS epidemic or armed insurrection. What explains this renewed interest?

First, whereas corruption is a problem for all countries, Africa is regarded as least able to bear its heavy costs in view of the continent's debilitating poverty. In spite of some encouraging signs of positive economic performance after two decades of negative growth, African countries remain poor and there is the fear that nascent growth and prospects of sustained development might be wiped off by extensive and institutionalised corruption.

Secondly, there is a growing understanding that most of the programmes of economic, political and institutional reforms hinge on the integrity of the emerging political and administrative systems. These are generally undermined by widespread perception of corruption- on the part of prospective investors from within and outside the country. Indeed, many believe that the possibility that leaders would use public power to seek

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private gain -the generally accepted definition of corruption- remains one of the most serious disincentives for the mobilisation of domestic savings and private investment in many African countries. It is a possible explanation for the low average ratio of private investment to GDP of only 15-17% which is considered as very much below the average for developing countries.<sup>2</sup>

Finally, many African countries are experiencing multiple dimensions of change: economically, socially and politically.

It is becoming increasingly evident that the process of change itself could provide an environment that gives additional impetus for corrupt practices. The Global Coalition for Africa (1997), for instance, sums up the problem of on-going liberal economic and political reforms in many transitional countries as follows:

Once established, democratic political systems and open economies provide the best opportunities for controlling corruption. In periods of transition, however, when one set of rules has broken down, but another has not yet become institutionalised, opportunities for corruption can flourish, while the openness enjoyed as a result of political liberalisation makes corruption more evident (see also Charlick 1993, Olowu 1993)

In the same vein, the Warioba Presidential Commission on Corruption in Tanzania classifies corruption in that country into two broad forms: petty corruption associated with poor pay and big-time corruption by those determined to make big money.

Substantial discussion since the 1960s at both scholarly and policy fora on the subject of corruption has led to a recognition of the causes and consequences of corruption in poor countries. In sum, corruption has internal (rent seeking opportunities triggered by bad economic policies, poor public service leadership and pay, weak detection and penal mechanisms, absence of transparency, societal tolerance etc) and external causes (corrupting incentives and procedures from foreign contractors and donor agencies etc, see for instance OECD 1998)

Some consensus also seems to have emerged on what constitutes the appropriate strategies for tackling the problem, although the specifics for each country would depend on the peculiar circumstances of each country.

Six 'pillars' for sustaining or restoring national integrity have been identified<sup>3</sup>. These are:

a) Leadership and Political Will- especially to give anti-corruption activities the initial impetus and necessary credibility;

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<sup>2</sup> For a good review of African governmental corruption see: Ekpo 1979, Olowu 1988, Rasheed & Olowu 1993, Kpundeh 1995 and Reno 1995.

<sup>3</sup> Perspectives on approaches to tackle bureaucratic corruption can be found in United Nations Economic Commission for Africa 1996 and some recent World Bank-related studies on the subject: Johnston 1997, Rose-Ackerman 1997, Langseth et.al 1997, Global Coalition for Africa 1997 and World Bank 1997.

- b) Policy Reforms- increasing internal and external competition in the delivery of services and removing opportunities for rent seeking etc;
- c) Supportive Institutional State Structures- reform and reorganisation of critical structures such as the judiciary and parliament-to increase their capacity and independence, revitalising the civil service and local governments as effective popular organisations.
- d) Creation and sustenance of effective and credible external watch-dog organisations which involve civil society organisations in the work of these organisations.
- e) Political Reforms- that gives political space and institutional opportunities to critical civil society organs such as the media, Chambers of Commerce, small and informal sector operators to articulate their concerns and offer constructive ideas for change in a systematic and institutionalised manner.
- f) International Organisations and Measures- Organisations such as Transparency International have given critical focus to the ways by which foreign governments and companies may help to promote or reduce corruption in developing countries

All of these measures are important, but the Botswana experience demonstrates that the critical institution to leverage and orchestrate all of these reforms is the fourth pillar in the above-mentioned list- the anti-corruption watchdog agency.

It is indeed paradoxical that the country where corruption is least institutionalised, where the rule of law is most respected has led the crusade on corruption on the continent.

This Botswana experience is reviewed below. First, we provide a description of the background issues which led to the creation of DCEC. Next, we examine the organisation and structure of the organisation before appraising the achievements and problems confronting the organisation. Finally, we highlight the lessons of the Botswana experience.

#### I. Background to the Creation of the DCEC.

Botswana, with a population of only 1.5 million is black Africa's most established democracy and has the best performing economy. It has never experienced military rule and there has been five-yearly multiparty elections in the country since 1966 when it became independent. Botswana is also one of the world's fastest growing economy and its stock exchange was rated by the Economist magazine as the second best performing in the world in 1997. This was at a time when many other African countries were just managing not to post a deficit. On the contrary, Botswana's economy has grown steadily from being one of the poorest in the world to one of the most successful<sup>4</sup>. The

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<sup>4</sup> Botswana's GNP per capita in 1995 was US\$ 3,020, the second highest in Black Africa where the median per capita income for the same year was only \$320 (Gambia) . Life expectancy and respective growth rates for both countries are: 68 and 46 years and 4.1%

major explanations for Botswana's extraordinary performance has always been given as: the commitment of its political leadership to liberal /multiparty democracy or consensus politics and to sensible economic policies, rapid and sustained economic growth and an efficient central state.

The Botswana public service is reputed to be generally efficient and incorruptible. However, in the early 1990s, a number of major scandals rocked the Botswana public service. These included illegal land sales in pen-urban public land, the building of high cost houses for sale for which there were no prospective demands and large unpaid loans by high ranking persons from the National Development Bank that practically led to the ruination of the latter. These and a number of others were revealed through the activities of the independent media which in most cases led to official inquiries. These enquiries not only established the truth about these misdemeanours but led to the resignation of a number of ministers and demonstrated the general pattern of corruption activities in Botswana. They involved the elites who were mainly the political leadership, mostly high ranking ministers and even the then President (Masire) and his relations were implicated in one case. In all cases, the scale of corruption involved large sums of money, running to several hundred millions of pula<sup>5</sup>.

These revelations produced widespread criticism in the media and especially in the parliament. It became increasingly obvious that corruption might become the major obstacle to the continued growth and prosperity of the Botswana economy. The scandals created the rationale for a permanent agency with wide powers to tackle corruption and economic crimes. An ombudsman was also established shortly afterwards in 1995, to deal with citizens' complaints on the misuse of powers by public officials. The idea was that DCEC will deal with high profile economic crimes and related corruption while the Ombudsman will tackle the petty forms of corruption and abuse of office. DCEC was reputedly modelled after the Hong Kong's Independent Commission Against Corruption (ICAC) (See Doig 1995).

## II. Organisation and Structure of the DCEC.

DCEC was established in August 1994. Its objectives included the following:

- a) to receive and investigate any complaints alleging corruption in any public body;
- b) to investigate any alleged or suspected offences under the Act or in contravention of the of fiscal and revenue laws of the country;
- c) to assist any law enforcement agency of the government in the investigation of offences involving dishonesty or cheating of the public revenue;
- d) to examine practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which in the opinion of the Director may be conducive to corrupt practices;

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and 1.6%. (World Bank 1997b). For a treatise on Botswana's economic performance, see Steadman 1993.

<sup>5</sup> One US\$ fetched the equivalent of 3.8 pulas in May 1998. For a full discussion of these corruption cases, see Good 1994.

- e) to instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- f) to advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such public bodies which the Director thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- g) to educate the public against the evils of corruption; and h) to enlist and foster public support in combating corruption.

The Corruption and Economic Crime Act of 1994 empowers the Director of DCEC to conduct inquiries or investigations into any alleged or suspected offences, demand for the records of any public or private agency or private individuals. The Director is also empowered to arrest, without warrant, any person he or she reasonably believes has committed an offence or is about to commit an offence, enter and search any premises that might bring a conviction. S/he is also capable of using necessary force 'to enter into any vessel, boat, or aircraft or other vehicle' and with the necessary notice require a person under investigation to surrender his or her travel document.

The Act goes to great lengths to define what constitutes an economic crime or corruption. The most important ones include:

*bribery, conflict of interest, diversion of public revenue, possession of unexplained property (living above one's visible incomes)*

The first Director of DCEC was an expatriate British citizen. After serving for the organisation's first two years, August 1994 - January 1997, he was succeeded by a Batswana, the current incumbent who was a former police officer. DCEC is an independent unit but is responsible to the President-through the Office of the Permanent Secretary to the President. DCEC, unlike its Hong Kong counterpart, cannot also prosecute anyone without the approval of the Attorney General's Office. Its officials are not civil servants in the strict definition of the term but all recruitment into the organisation is carried out by the Public Service Management department.

The Directorate has three main areas of activities and this is reflected in its organisational structure. The first of these is 'Operations' which includes investigations, prosecution and intelligence. The second is 'Public Education' and the last is 'Corruption Prevention'.

Information for DCEC's Investigations are sourced from reports it receives from the public (citizens, and mostly from the independent media and the parliament), from government departments or collected directly by the Directorate itself through its Intelligence department. The Directorate has a hotline telephone number which is well publicised. Cases are then sorted out to determine which of them have sufficient merit to have prosecution instituted and which of them warrant corruption prevention studies or which ones should be referred to another agency for investigation and! or disciplinary actions.

Once the Directorate has decided that a case merits prosecution, it is referred to the Attorney General's Office which if approved, is referred back to the Directorate for court action.

Corruption prevention activities of the DCEC targets specific areas of economic activity for study. Areas already identified include: purchasing and tendering in the construction industry, purchase and maintenance of vehicles, allocation of government land and housing, administration of welfare, medical aid schemes and the issuance of various licenses and permits.

The Directorate conducts diagnostic studies for the organisations it visits for such purposes or to which it has been invited. It then submits a copy of the final report to the head of the organisation.

But perhaps the most important aspect of the work of the Directorate to date is its public education programme. Activities in this area to date have included: talk shows, phone-in shows on television and radio channels, posters and pamphlets, newspaper adverts, press releases and talks and presentations to various groups.

### III. Achievements of the DCEC

Whereas a number of observers, especially within Botswana have dismissed DCEC as a largely ineffective organisation, a number of other close observers, especially from outside the country are convinced that DCEC, has been a success in its short life -span.

Among its most important achievements are:

a) Focusing Attention on Corruption as a serious economic and social problem in Botswana. This is important for a country whose economy is very resilient. It is easy for the people and their leaders to become complacent on ethical matters. Besides, the organisation has challenged ordinary citizens of Botswana to play a role in tackling corruption. They could secretly report corrupt charges through the hotline. The DCEC Act has stiff penalties for frivolous, false or groundless complaints-a fine of Pula 5,000 or 5-year imprisonment or both but this has not discouraged the people to lodge several complaints. A total of almost 1000 reports (896 to be exact) were lodged in 1995 and this rose to 1,380 in 1996. In the end, 691 of these reports were found to fall within the remit of other agencies and in many cases it has led to disciplinary actions in these organisations.

b) Investigations, Arrest and conviction of Economic criminals. DCEC has been constantly accused of failing to catch 'big fish' criminals. It responds to this charge by arguing that it is not morally defensible to simply arrest people without credible evidence. On the other hand, as Table 1 shows, DCEC has succeeded in investigating the information available to it on corruption and economic crimes and it has been highly successful in prosecuting and getting conviction. Its conviction rate of 60 out of the total of 95 it brought to courts since its inception, nearly 80% of all cases it brought to court is quite commendable and compares favourably with the British Serious Fraud Office for instance. Convictions have been made in the public and private sectors and even staff of the DCEC itself have not been spared.

c) DCEC has brought sustained focus on the issue of corruption by various organisations and people in all walks of life. Besides its highly successful anti-

corruption campaign- which is also reflected in the high number of reports it receives- it has provided opportunity for ordinary citizens to report what they perceive as misdemeanours.

DCEC has been able to put through the parliament a new code of ethics that requires all parliamentarians to make a declaration of their financial assets and to make these assets available for public scrutiny. This is a far cry from what obtains in many African countries in which declaration assets are regarded as secret property, available and accessible only to the state and its officials. DCEC has also been able to focus on the most strategic corruption-prone areas as already indicated above. The latest addition is the growing tourist industry around Maun.

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

d) The public education programme of the DCEC is one of the most important achievements of the organisation. It has taken its crusade against corruption to all the nooks and corners of the country: schools and especially the university, ministries, co-operatives and other voluntary organisations such as trade unions and churches.

It might be important to note that DCEC is a well funded organisation. It has adequate funds to attract and retain the best personnel and make them operationally effective. It sponsors its officers in training programmes nationally and internationally. Some of its officers have gone to ICAC for training and there is strong donor support for the DCEC. Some 13 expatriates (1 Canadian and others, British) were still working in the organisation in May 1998 although there were already plans to gradually localise the staff of the organisation.

#### IV. Problems Confronting DCEC

In spite of these important achievements, DCEC is also confronting a number of problems, some of them quite serious.

The first of these is manpower problem. It has an employee size of only 108 but a vacancy of 14 senior positions still exist - and this in the most critical areas of investigation. As the expatriate personnel make plans to leave, efforts to secure local personnel have not been successful thus far. In addition, with the departure of the first Director, Mr. Stockwell, there are fears that the agency may not be able to maintain its energetic and combative posture.

Secondly, there are also serious institutional problems. The courts are not able to respond adequately and promptly to cases brought before them. Some cases drag on for very long (over 6 or 7 months) as a result of this. In addition, the requirement - not in the Act establishing DCEC but in practice imposed by judges - that they must secure warrant also makes it difficult to catch potential culprits. This is because magistrates

have to be convinced that a particular case merits being pursued, and that the human rights of the suspected criminal were not impugned. This leads to the loss of much valuable time, especially for those who are well connected. Another problem area is the relationship between the DCEC and the Attorney General's (AG) Office. The agency claims that the staff of the AG's office have not been able to cope with the flow of work from the agency. It is surprising why the agency must obtain approval to prosecute from the AG's office.

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

Thirdly, the Agency faces a serious problem of public perception as a whitewash for the present government - which is increasingly losing grounds to the opposition, which at the last election received 37% of the votes and presently controls many of the city/municipal councils. As earlier noted above in the review of the landmark corruption cases which led to the inception of the agency, most of these cases were big cases involving several millions of pulas. On the other hand, a review of the cases in which it has prosecuted or received convictions involve no more than a few hundreds of thousands. None has been more than half-a million pulas.

In spite of these problems, the Botswana DCEC throws up a number of interesting lessons and it is these that are focused in the next and final section.

#### V. Lessons of the Botswana DCEC.

One important lesson is that economic transition even in the rosier circumstances highlights a number of challenges which make corruption become important as political and economic issues. Botswana is fortunate in that its civil service is relatively well paid by international and private sector standards. Considerable resources are also expended on their training. In many other African countries where this is not the case, the situation has become very complicated. For instance, the Tanzania report identified cases of institutionalised corruption in the various ministries and departments of government: bribes are demanded and paid for registering children in schools, for receiving attention in clinics or hospitals, to obtain licences, for promotion, attending training or duty trips, etc. The whole effort here is directed to securing incomes to supplement the meagre incomes offered by the civil service. Unfortunately, this is an issue which many civil service reforms only touch superficially.

Secondly, much as the other critical conditions for tackling corruption are important and relevant, an institutional approach is necessary to confront corruption head-on in most countries and to serve as the catalyst for orchestrating reforms in other sectors and social institutions. The anti-corruption watchdog must be supplemented with the other interventions identified earlier

An independent anti-corruption institution is crucial for the success of anti-corruption programmes in many African countries because, like the DCEC it can help to stimulate

or press for change in other institutions such as the courts, the legislature and the Attorney General's Office in focusing their energies on anti-corruption issues. It has also kept the issue of corruption in the front burner in other public and private sector organisations.

Thirdly, the Botswana case demonstrates the conditions for the effectiveness of the institutional approach. The institution must not only be independent it must be seen to be independent by all the actors in the society. The fact that DCEC is treated as a branch of the Botswana Presidency which has to wait on the regular courts, the A/G's office for prosecution and the civil service department for its staffing has not helped the image of the organisation. It seriously detracts from its image as an independent agency which can take effective actions against important political figures in the government or the larger economy.

Finally, the Botswana approach also illustrates the opportunities for collaboration that can exist between the various actors in society in combating corruption: domestic and external actors, public and private, state and society actors.

In conclusion, the Botswana DCEC is still in its formative stage. There are opportunities for improvement. This paper has tried to demonstrate the relevance of an effective fight against corruption as an important strategy for economic health. It has also drawn attention to the lessons of the Botswana experience for other African countries in spite of its limitations and peculiarities to Botswana.

**TABLE 1:            BOTSWANA DCEC –  
REPORTS AND INVESTIGATIONS (1994 - 1997)**

	<b>NO.</b>	<b>%</b>
<b>REPORTS INVESTIGATED</b>	<b>998</b>	<b>100</b>
<b>REPORTS CONCLUDED</b>	<b>462</b>	<b>46.3</b>
<b>REPORTS BROUGHT TO COURT</b>	<b>141</b>	<b>30</b>
<b>JUDGEMENTS</b>	<b>75</b>	<b>53</b>
<b>CONVICTIONS</b>	<b>60</b>	<b>80</b>
<b>ACQUITTED</b>	<b>2</b>	<b>2</b>
<b>UNDECIDED</b>	<b>66</b>	<b>46</b>

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