



REPUBLIC OF ZAMBIA

NATIONAL ANTI-CORRUPTION POLICY

2009



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Foreword

Corruption has been and still is a significant impediment to good governance in Zambia. Since attaining independence in 1964, successive Governments have instituted legal, institutional, economic, and social reforms, which have largely aimed at enhancing good governance for improved public service delivery and contribution to economic and social development.

The principal legislation providing for anti-corruption is the Anti-corruption Commission Act No. 42 of 1996, which came in effect after the repeal of the Corrupt Practices Act No. 14, of 1980. The Act also establishes the Anti-Corruption Commission, which will be the lead institution within this Policy framework.

In March 2000, the Government launched the National Capacity Building Programme for Good Governance in Zambia. This programme and the Poverty Reduction Strategy Paper acknowledged that corruption is a serious governance challenge, which significantly contributes to poor public service delivery and affects economic and social development in Zambia. In 2004, the Government launched the National Governance Baseline Survey Report. The report provided a firm empirical basis for developing a comprehensive anti-corruption Policy and appropriate anti-corruption measures in our country in order to take the anti-corruption fight to a higher level.

This National Anti-Corruption Policy (NACP), which is the first ever comprehensive Policy on corruption in Zambia, provides a framework for developing ways and means of preventing and combating corruption in a comprehensive, co-ordinated, inclusive, and sustainable manner. It acknowledges that corruption is a complex crosscutting problem, which requires a multi-faceted approach to deal with it. The policy provides for the participation and involvement of all sectors, institutions, and individuals in tackling corruption.

The Policy identifies the institutionalisation of integrity programmes in both public and private institutions through establishment of Integrity Committees, as a good implementable strategy to enhance good governance. It identifies and provides for the need for co-ordination and harmonisation of the various good governance reforms and programmes apart from providing for re-orientation and strengthening of governance institutions. The chief end of the Policy is to achieve a significant reduction in the levels of corruption to match with the efforts and financial resources which have to be spent to curb the scourge.

The period for implementation of this Policy is five (5) years from the time of adoption. The successful implementation of this Policy will require the concerted efforts and commitment of every Zambian at every level. The NACP therefore presents a challenge as well as an opportunity to every Zambian to meaningfully contribute to improving the governance of Zambia.

I therefore urge all the people of Zambia to support and actively participate in the successful implementation of the National Anti-Corruption Policy.



Rupiah B. Banda
President of the Republic of Zambia

Acknowledgements

The formulation of the National Anti-Corruption Policy involved wide consultations through; National Provincial and other consultative workshops with all key stakeholders in order to achieve a Policy, which is responsive to the needs and aspirations of the nation. Our appreciation is accordingly being extended to all stakeholders and these include:

- (a) Their Royal Highnesses the Traditional rulers through the House of Chiefs;
- (b) Honourable Members of Parliament;
- (c) Permanent Secretaries drawn from Sectoral Ministries and Provinces;
- (d) The Committee of Permanent Secretaries which examined the draft Policy document, provided critical comments and valuable guidance;
- (e) Public offices in government, Parastatals and Local Authorities, the private sector through the Zambia Business Forum (ZBF), Transparency International Zambia Chapter (TIZ), the Non-governmental Organisations Co-ordinating Committee (NGOCC), Faith Based organizations through the umbrella bodies, namely the Evangelical Fellowship of Zambia (EFZ) Christian Council of Zambia, the Zambia Episcopal Conference (ZEC) and the Islamic Council of Zambia, Professional Associations, the Media, the Women, the Youth, and Civil Society; and,
- (f) The Consultant in the Policy formulation process Mbinji Mufalo and the Task Team formed to spearhead the development of the Policy.

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Working Definition

For the purposes of this Policy, the following words and concepts have been defined as follows:

Accountability	means the responsibility of an individual, institution, official or politician to carry out a given mandate and to justify decisions and actions according to applicable rules and regulations.
Auditing	means an independent, objective, systematic process that assesses compliance with established rules, regulations, policies, and procedures and validates the accuracy of financial reports.
Bribery	means the act of offering someone money or other valuables, in order to persuade him/her to do or not to do something.
Bribe	means gift of money, favour or material given to persuade someone to do or not to do something.
Corruption	means soliciting, accepting, obtaining, giving, promising or offering of gratification by way of a bribe or other personal temptation or inducement or the misuse or abuse of a public office or authority for private advantage or benefit through bribery, extortion, influence peddling, nepotism, fraud, rushed trials, and electoral malpractices.
Corruption Prevention	means the detection and elimination of the causes of and conditions for corruption and unethical conduct through development and implementation of a system of appropriate measures, paramount of which is that of deterrence against corruption-related criminal acts and all unethical acts that lead to or bring about corruption.
e-Governance	means the use of information and communication technology to provide certain services to the public by making available online transactions in a depersonalized and standard format.

Electoral Corruption	means any illicit activity committed under the electoral laws and regulations from which a benefit or advantage is realized or derived, directly or indirectly.
Good Governance	means a governing activity that is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.
Government Agency	means any Ministry or Department of the Government, any statutory corporation or board, any local authority or body to which functions exercisable on behalf of the Republic, involving the use of public moneys or stores, are delegated by or under any written law.
Gratification	means any corrupt payment, whether in cash or kind, any rebate, bonus, deduction or material gain, benefit, amenity, facility, advantage or gift, or any other thing obtained as a result of the corrupt misuse or abuse of public funds or property, other than a casual gift.
Integrity Committees	means corruption prevention committees that ensure that individual organisations are responsible for corruption prevention in their respective organisations.
Law Enforcement	means the act of enforcing, applying and ensuring observance of or obedience to the laws.
Money Laundering	means the depositing and transferring of money and other proceeds of illegal activities. That is, the process whereby the identity of dishonestly and/or illegally obtained money (corruption proceeds) is transformed so that it appears to have originated from a legitimate source (legitimate businesses).

Non-Governmental Organisation	means legal entities established in accordance with the Societies Act, or the Companies Act, or any other constitutive law of the Republic of Zambia.
Oversight Institution	means a government agency or body that provides government regulation through offering balanced correctional authority over other government agencies or bodies, and any other agency or body that has contractual obligations to government.
Public	means the general public (citizens and residents). Public Institution means the government (i.e., any ministry, department, service, or undertaking of the Government of Zambia).
Public Auditing	means a process of publicising public undertakings (projects, programmes) and financial information to the public (stakeholder and others).
Public Authority	means; <ul style="list-style-type: none"> (a) Government at national, provincial and other level; (b) Persons performing public administrative functions under national law, including specific duties, activities or services in relation to the government, statutory bodies, parastatal bodies; and/or (c) Any persons having public responsibilities or functions, or providing public services.
Public Office	means an office whose emoluments are paid directly from the consolidated fund or directly out of money provided and as approved by Parliament.
Public Officer	means a person in the employment of: <ul style="list-style-type: none"> (a) a department of the Government; (b) a statutory corporation; (c) a statutory body; or (d) a company in which the Government has majority or controlling interest;

Public Official	means any person who performs a public function or provides a public service as defined in the laws of Zambia.
Public Service	means the services of the government or a local authority or of a statutory board or body including an institution of higher learning, corporation or company in which the government has majority interest or control.
Service Delivery Charter	means an informal social contract between a service provider and receiver/seeker that provides information to the receiver on procedures for acquiring the service, the cost, the duration within which the service will be provided and, the service assistance and feedback channels.
Social Preventive Measures	means preventive measures that take into account both behavioural and attitudinal effects of the institutional weaknesses and social inequities on society and or individuals in their day to day interaction with the State.
Transparency	means the principle that those affected by administrative decisions should be informed, and the duty of civil servants, managers and trustees is to act visibly, predictably and understandably.
Unethical Practice	means any action or conduct which, in the view of an honest and reasonable person or observer, creates the impression of violating societys' established ethical standards, including the codes of ethics and conduct or other institutional disciplinary code, which may likely put the nation or organization in disfavour or disrepute.

Acronyms

ACC	Anti-Corruption Commission
BOZ	Bank of Zambia
DEC	Drug Enforcement Commission
ECZ	Electoral Commission of Zambia
ICs	Integrity Committees
MDA	Ministry, Department and Agency
NCBPGG	National Capacity Building Programme for Good Governance
NACP	National Anti-Corruption Policy
FNDP	Fifth National Development Plan
OAG	Office of the Auditor General
PPA	Public Procurement Authority
PRSP	Poverty Reduction Strategy Paper
PSRP	Public Service Reform Programme
SITET	Special Investigations Team on Economy and Trade
ZNTB	Zambia National Tender Board
ZRA	Zambia Revenue Authority

1.0 INTRODUCTION

- 1.1 The Government recognises that the increased prevalence of corruption has negative effects on the country's efforts to enhance socio-economic and political development. Corruption tends to limit citizens access to free public goods and services and reduces freedom of political choice in elections. Corruption can also be linked to the escalation of poverty, as the prevalence of corrupt practices socially excludes the poor from freely accessing public goods and services.
- 1.2 The Government's socio-economic and political reforms and programmes have consistently recognised the need to put in place good governance measures. The measures involve institutional reform, legal reforms and, social mobilisation programmes undertaken by both public bodies and non-governmental organisations. These measures seek to address the legal, institutional and social weaknesses that provide opportunities for corruption. In addition, they seek to strengthen public accountability and transparency.
- 1.3 These measures have often been implemented within frameworks that are isolated and uncoordinated. Therefore, their impact on preventing and combating corruption in the country has not adequately corresponded to the efforts and fiscal resources involved.
- 1.4 The Government has recognised the negative effects of corruption on the citizenry. Therefore, it is imperative that the anti-corruption efforts must take an effective, acceptable, harmonised and coordinated approach.
- 1.5 In doing this, the Government has developed a policy, which is a course of action that provides effective and acceptable legal, institutional, and social interventions.
- 1.6 The Policy outlines the situation analysis, the vision, rationale, guiding principles, objectives, measures, and implementation framework.

2.0 SITUATION ANALYSIS

2.1 Background

- 2.1.1 Prior to independence, the fight against corruption was predominantly addressed from a legal perspective. To this end, the first law on corruption was the Prevention of Corruption Act of 1916.
- 2.1.2 The Prevention of Corruption Act of 1916 was to be cited together with the Public Bodies Corrupt Practices Act of 1889, and the Prevention of Corruption Act of 1906.
- 2.1.3 The legal provisions on corruption in post-independent Zambia were first contained in the Penal Code, CAP 146, Chapter X. Section 56 of this legislation was concerned with Corruption offences by persons employed in the public service and did not cover corruption by or with private bodies or agents.
- 2.1.4 In 1973, a leadership code for leaders, which constituted Part IV of the Republican Constitution, was introduced. The Leadership Code, First Schedule, Regulation 2, covered all persons in the service of the United National Independence Party (UNIP), the Government, local authorities, statutory corporations including institutions of higher learning, any Commission established by law, the Zambia Congress of Trade Unions and its affiliates earning above a certain income threshold. The Leadership Code was abolished in November 2002.
- 2.1.5 The Special Investigations Team on Economy and Trade (SITET) was established in 1971. SITET was designed to investigate economic crimes in the country, and hence was concerned with issues of money laundering, illegal foreign currency dealings, smuggling, and hoarding of commodities, among others. With the advent of economic liberalisation in 1991, SITET was abolished in 1992.
- 2.1.6 In 1980, the Corrupt Practices Act No. 14 of 1980 was enacted. This legislation made corruption an offence in both the public and private sectors. Further, it provided for the establishment of the Anti-Corruption Commission to spearhead the fight against corruption. The Corrupt Practices Act was repealed in 1996, and replaced by the Anti-Corruption Commission Act No. 42 of 1996.

2.1.7 In July 2002, an inter-agency Task Force on Corruption comprising the Zambia Police (ZP), Drug Enforcement Commission (DEC), Anti-corruption Commission (ACC), and Zambia Intelligence Security Services (ZISS) was instituted to investigate abuse of office, mismanagement of government funds, theft of government resources, money laundering, and corruption between 1991 and 2001.

2.1.8 To assess the extent of corruption, the Government instituted a National Governance Baseline Survey in 2003. The findings showed that the causes of corruption in Zambia are perceived to include:

- (a) Low salaries for public officials;
- (b) Lack of transparent and accountable political processes;
- (c) Poor economic policies, such as privatisation;
- (d) Lack of an effective incentive mechanisms for public officials;
- (e) Lack of an effective corruption reporting system;
- (f) Lack of an independent and effective judiciary;
- (g) Lack of an independent and effective media; and,
- (h) Cultural factors.

2.2 Legal, Institutional, and Social Framework

The following sections provide an overview of the legal and institutional frameworks, and social contexts with respect to anti-corruption in Zambia.

(a) Legal Framework

2.2.1 The principal legislation enacted to combat corruption is the Anti-Corruption Commission Act, Cap 91 of the Laws of Zambia, which came in effect after the repeal of the Corrupt Practices Act. Part 4 of the Anti-Corruption Commission Act defines the offences that constitute a corrupt act and associated penalties.

2.2.2 Other laws that have relevant provisions that can be used in anti-

(i). The Penal Code Act (Chapter 87 of the Laws of Zambia)

The Penal Code is the principal legislation prescribing crimes and their penalties. Before the passing of the two anti-corruption Acts, the repealed Corrupt Practices Act No. 14 of 1980 and the Anti-Corruption Commission Act No. 42 of 1996, corruption could only be prosecuted under the premises of the Penal Code. The

Penal Code contains a number of provisions dealing with corruption, abuse of office and the exercise of public authority. Chapter X proscribes corrupt conduct in a public office and this also includes provisions relating to false claims for personal gain, false assumption of authority and impersonating of public officers.

Section 97 provides that any person employed in the public service and charged by virtue of his employment with judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding directly or indirectly, a private interest in any such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business in which he has such interest or with respect to the conduct of any person in relation thereto is guilty of misdemeanour and is liable to imprisonment for one year.

Section 99 provides that any person who, being employed in the public service does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights or interests of the government or any other person is guilty of a misdemeanour. If the act is done or directed to be done for purposes of gain he is guilty of a felony and is liable to be imprisoned for three years.

(ii). Public Procurement Act No. 12 of 2008

The Public Procurement Act No. 12 of 2008 repeals and replaces the Zambia National Tender Board Act, of 1982. The Act provides for continued existence of the Zambia National Tender Board, but re-names it the Public Procurement Authority (PPA). The Act seeks to ensure transparency and accountability in public procurement; and, regulate and control practices relating to public procurement in order to promote the integrity of fairness and public confidence in public procurement processes.

(iii). The Parliamentary and Ministerial Code of Conduct Act No. 35 of 1994

The Act was passed to establish a code of conduct for offices of

Vice-President, cabinet ministers and deputy ministers in accordance with Article 52 of the Constitution, and for members of the National Assembly in accordance with Article 71 of the Constitution. The Act provides that in the event of a breach of the code the member concerned will lose his seat in the National Assembly.

(iv). The Electoral Act No. 12 of 2006

Elections in Zambia are governed by the Electoral Act No. 12 of 2006 and the Local Government Elections Act CAP 282 of the laws of Zambia. Part VII of the Electoral Act defines corrupt and illegal practices and election offences. The Act defines a corrupt practice simply as an offence deemed to be a corrupt practice under the Act. The Act gives mandate to the Anti-Corruption Commission (ACC) to investigate and prosecute any corrupt practice committed during an election. The Act further provides for penalties and sanctions against persons convicted of electoral malpractices.

(v). The Judicial (Code of Conduct Amendment) Act No. 17 of 2008

The Judicial (Code of Conduct)(Amendment) Act No. 17 of 2008 derives from amendments to the Judicial (Code of Conduct) Act No. 13 of 2006 and Judicial (Code of Conduct) Act No. 13 of 1999. The Act is promulgated by Parliament pursuant to Article 91 clause 2 of the Constitution of Zambia. The Act provides for the code of conduct for officers of the Judiciary and establishes the Judicial Complaints Authority, which is mandated to investigate allegations of misconduct against Judicial Officers.

(vi). The Prohibition and Prevention of Money Laundering Act No. 14 of 2001

This Act provides for the prohibition and prevention of money laundering, the constitution of the Anti-Money Laundering Authority and the Anti-Money Laundering Investigations Unit. It seeks to provide for the disclosure of information on suspicion of money laundering activities by supervisory authorities and regulated institutions, the forfeiture of property of persons

convicted of money laundering, local and international cooperation in investigations, prosecution and other legal processes of prohibiting and preventing money laundering.

(vii).The Bank of Zambia Anti-Money Laundering Directives 2004

The Bank of Zambia (BOZ) has issued Anti-Money Laundering Directives, 2004, made pursuant to Section 12(4) of the Prohibition and Prevention of Money Laundering Act Number 14 of 2001. The Directives require a regulated institution to put in place anti-money laundering measures and adopt such practices as are necessary for the detection and prevention of money laundering.

(viii).The Public Finance Act No. 15 of 2004

Public Finance Act provides for the control and management of the public finances of the Republic of Zambia. The Act defines public moneys to include all revenues and all moneys raised or received for the purposes or benefit of the Republic and; all stamps, bonds, debentures, and other securities raised or received by, on behalf of, or for the benefit of the Republic.

(ix).The Zambia Development Agency Act No. 11 of 2006

The Zambia Development Act No. 11 of 2006 seeks to foster economic growth and development by promoting trade and investment in Zambia through an efficient, effective and coordinated private sector led economic development strategy, and establishes the Zambia Development Agency as a one-stop investment facilitation centre which will, among other things, streamline bureaucratic procedures and requirements faced by investors. The Act also prescribes procedures for privatisation of state owned enterprises.

(x). Administrative Law Remedies

Most public administrative agencies be they a government department, a local authority or independent statutory corporation or an administrative tribunal owe their powers to Parliament, and hence the courts have authority to review their administrative actions should they be called into question. The

prime rationale for this intervention is the presumption that Parliament does not vest a public Agency with statutory authority to be exercised unreasonably.

2.2.3 Further, legislation in the Laws of Zambia which contain provisions that have evidential value in anti-corruption include:

- (i) Authentication of Documents Act, CAP 75.
- (ii) Banking and Financial Services Act, CAP 387.
- (iii) Companies Act, CAP 388.
- (iv) Competition and Fair Trading Act, CAP 417.
- (v) Copyright and Performance Rights Act, CAP 406.
- (vi) Criminal Procedure Code Act, CAP 88.
- (vii) Evidence Act CAP 43.
- (viii) Evidence (Bankers' Books) Act CAP 44.
- (ix) Extradition Act, CAP 94.
- (x) Interpretation and General Provisions, Act, CAP 2.
- (xi) Inquests Act, Chapter 86.
- (xii) Mutual Assistance in Criminal Matters Act, CAP 98.
- (xiii) National Assembly (Powers and Privileges) Act, CAP 12.

2.2.4 In addition to the general legal provisions considered above, there are other administrative provisions that are designed to regulate the functioning of the public service. Chapter IV, Conduct and Discipline, of the Terms and Conditions of Service for the Public Service (June 2003), is designed to regulate the functioning of the public service with respect to conduct and discipline of public workers.

2.2.5 The legal framework has many laws and regulations which have provisions which can foster anti-corruption. However, there exists disharmony in the definitions and inadequate applicability of the provisions relevant to anti-corruption in the different legal instruments or laws. Specifically, the legal framework does not provide for the protection of whistle-blowers, lacks redress for those who are falsely complained against, and there is no provision for the regulation of electoral competition as a way of eradicating electoral corruption.

2.2.6 The legal context on anti-corruption is also provided in the international instruments to which Zambia is party. The instruments entails that the Government of Zambia undertakes to adopt anti-corruption measures, which will create, maintain and strengthen strides to control corruption, by including provisions in the instruments of domestic legislation and thereby making it enforceable.

2.2.7 Currently, there are legal reforms being undertaken with a bearing on anti-corruption. These are the Anti-Corruption Commission Act, and Anti-Money Laundering Act.

2.2.8 Challenges

In view of the above legal framework, the following are the challenges to the fight against corruption:

- (i) Enhancing and harmonising anti-corruption laws and regulations;
- (ii) Reviewing and enacting relevant legislation in the fight against corruption;
- (iii) Domesticating provisions in international instruments.

(b) Institutional Framework

2.2.9 The institutional framework for anti-corruption in Zambia comprises of law enforcement agencies, oversight institutions and other institutions; political socio-economic programmes and institutional reforms.

2.2.10 The following are the law enforcement agencies and oversight institutions that contribute to the fight against corruption.

2.2.11 Law Enforcement Agencies

(i) The Anti-Corruption Commission

The Anti-Corruption Commission (ACC) is the main body tasked to combat corruption in Zambia. The mandate of the Anti-Corruption Commission under section 9 of the ACC Act is provided as follows: prevent and take necessary and effective measures for the prevention of corruption in public and private bodies; receive and investigate complaints of alleged or suspected corrupt practices, and subject to the directions of the Director of Public Prosecutions, to prosecute those suspected of involvement in

corruption; investigate any conduct of any public officer which in the opinion of the Commission may be connected with or conducive to corrupt practices; disseminate information on the socio-economic effects of corrupt practices, and enlist and foster public support against corrupt practices; and do such things as are incidental or conducive to the attainment of the functions.

(ii) Zambia Police Force (ZP)

The Zambia Police Force (ZP) is the body tasked to provide law and order. Part VII, Article 103 of the Constitution of Zambia establishes the Zambia Police Force, and Chapter 107 of the Laws of Zambia cited as the Zambia Police Act provides for the organisation, functions and discipline of the Zambia Police.

(iii) Drug Enforcement Commission (DEC)

The Drug Enforcement Commission (DEC) is the body tasked to control the importation, exportation, production, possession, sale, distribution and use of narcotic drugs and psychotropic substances.

The Drug Enforcement Commission, is established by the Narcotic Drugs and Psychotropic Substances Act Chapter 96 of the Laws of Zambia and is, by provisions of that Act, a department under the Ministry of Home Affairs and operates under the control and supervision of the Minister of Home Affairs.

The DEC hosts the Anti-Money Laundering Authority and Anti-Money Laundering Investigations Unit, which is an inter-agency unit tasked with combating money laundering in Zambia, under the Prohibitions and Prevention of Money Laundering Act (Act No. 14 of 2001).

(iv) Task Force on Corruption

The Task Force on Corruption is an inter-agency ad hoc institution on corruption with a limited mandate to investigate abuse of office, mismanagement of government funds, theft of government resources, money laundering, and corruption between 1991 and 2001. The Task Force on Corruption comprises the Zambia Police (ZP), Drug Enforcement Commission (DEC), Anti-Corruption Commission (ACC), and Zambia Intelligence Security Services (ZISS).

(v) Director of Public Prosecutions

The Director of Public Prosecutions is mandated to ;

- (a) institute and undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence alleged to have been committed by that person;
- (b) to take over and continue any such criminal proceedings as may have been instituted or undertaken by any other person or authority; and
- (c) to discontinue, at any stage before judgement is delivered, any such criminal proceedings instituted or undertaken by himself or any other person or authority.

2.2.12 Oversight Institutions

(i) The Office of the Auditor General

Part X, Article 121 of the Constitution of Zambia establishes the Office of the Auditor General. The Office of the Auditor General monitors expenditure of public resources with respect to the purposes for which Parliament appropriated them. The mandate of the Office of the Auditor General can extend to any non-government agency that has received public funds.

(ii) The Public Accounts Committee of the National Assembly

The Public Accounts Committee of the National Assembly is a sessional committee appointed under the Standing Orders of the National Assembly. The committee examines the financial management of accounting officers of the public service, state owned enterprises and statutory institutions, whose accounts are audited by the Office of the Auditor General.

(iii) Commission for Investigations

The Commission for Investigations or Ombudsman as it is commonly known was established pursuant to Article 90 of the Constitution of Zambia. The Commission for Investigations Act, Cap 39 of the laws of Zambia provides for the Commission's power and functions. The Commission has jurisdiction to inquire into the conduct of any person to whom the Act applies in the exercise of his/her office or authority or in abuse thereof.

(iv) The Police Public Complaints Authority

The Police Public Complaints Authority is established under Section 57 B of the Zambia Police Act through an amendment effected by Act No. 14 of 1999, and subsequently the Zambia Police (Amendment) Act No. 15 of 2008. The powers of the Authority as provided in Section 57H of part XA are to investigate all complaints referred to it by: an aggrieved person directly affected by police action; an association acting in the interests of its members; and, a person acting on behalf of an aggrieved person, body or organization.

(v) The Judicial Complaints Authority

The Judicial Complaints Authority is a Government institution established in 2002 by the Judicial (Code of Conduct) Act No. 13 of 1999 as amended by the Judicial (Code of Conduct) Act No. 13 of 2006 and the Judicial (Code of Conduct)(Amendment) Act No. 17 of 2008. The Code of Conduct is promulgated by Parliament pursuant to Article 91 clause 2 of the Constitution of Zambia. The Authority enforces the Code of Conduct. It is mandated to investigate allegations of misconduct against Judicial Officers.

(vi) Public Procurement Authority (PPA)

Public Procurement Authority (formerly the Zambia National Tender Board (ZNTB)) which has the role of regulating and overseeing procurement of goods and services for the public service, state owned enterprises and statutory institutions. The Public Procurement Authority is established under the Public Procurement Act No 12 of 2008. The Authority regulates its own procedure but members must declare private interests if they participate in any meeting related to such interest and such disclosure must be recorded in the minutes. The Authority has the power to surcharge any government employee who causes financial loss due to recklessness, misconduct, or wilful default to follow procedures laid down in the Act with the amount of the loss being recoverable from such person's emoluments.

2.2.13 Despite the existence of the afore-mentioned institutions, the fight against corruption in Zambia is still beset with problems. The problems are mainly that:

- (i) Although law enforcement agencies and oversight institutions in Zambia refer cases to each other, most often they operate in isolation of each other, and follow-ups and systematic co-ordination and collaboration of their efforts is weak; and that,
- (ii) Law enforcement agencies and oversight institutions do not often offer competitive conditions of service to attract qualified human resources, and hence nearly all institutions have serious human resources constraints and inadequate specialised skills. In addition, most of the institutions do not have the requisite material resources needed to effectively execute their public service responsibilities.

2.2.14 Programmes and Institutional Reforms

2.2.15 In order to, in part, overcome the institutional weakness identified in section 2.2.13, the Government introduced programmes for institutional reforms that include:

- (i) The Public Service Reform Programme (PSRP);
- (ii) The National Capacity Building Programme for Good Governance in Zambia (NCBPGGZ);
- (iii) Poverty Reduction Strategy Paper (PRSP); and
- (iv) The Fifth National Development Plan (FNDP), 2006 - 2010.

(i). The Public Service Reform Programme (PSRP)

The Public Service Reform Programme (PSRP) was launched in 1993 with the aim of transforming the Public Service into an institution that is facilitating social-economic development and thereby contributing to poverty reduction. The overall goal of the PSRP is “to improve the quality, delivery, efficiency and cost effectiveness of public services to the people of Zambia.”

The three core objectives of the programme are to improve government capacity to analyse and implement national policies and perform its appropriate functions; effectively manage expenditure to meet fiscal stabilisation objectives and make the public service more efficient and responsive to the needs of the country's population.

(ii). The National Capacity Building Programme for Good Governance (NCBPGG) in Zambia

The National Capacity Building Programme for Good Governance (NCBPGG) in Zambia launched in March 2000 is concerned with strengthening and coordinating institutional linkages so as to enhance good governance in Zambia. Under 'Accountability and Transparency', the National Capacity Building Programme earmarks, for instance, strengthening the institutional framework and human capacity of government investigatory agencies, harmonising the anti-corruption operations with other institutions dealing with law enforcement so as to strengthen the execution of criminal justice, and ensure that persons in public office will exercise their authority within the confines of the law.

The National Capacity Building Programme for Good Governance (NCBPGG) in Zambia is a cross-sectoral/national programme. The Programme targets anti-corruption public agencies and institutions, which include the Anti-Corruption Commission (ACC), Commission for Investigations, Auditor General, Zambia Police, Director of Public Prosecutions, Drug Enforcement Commission, Accountant General, and the Public Accounts Committee.

The National Capacity Building Programme for Good Governance (NCBPGG) in Zambia is incorporated in the Governance Chapter of the Fifth National Development Plan (FNDP).

(iii). The Poverty Reduction Strategy Paper (PRSP)

The Poverty Reduction Strategy Paper (PRSP) was premised on the goal of poverty reduction so as to attain sustained economic growth and employment creation. In recognition of the consequences of corruption on poverty reduction, the PRSP prioritised linkages between poverty, good governance and corruption. In this regard, the PRSP undertook to “facilitate the enhancement of the principles of separation of powers and the strengthening of legislative and law enforcement institutions, highlighting weaknesses in oversight and addressing the weaknesses introduced by vices such as corruption”. The PRSP also indicated a policy of 'zero tolerance' against corruption as one of the major pillars of good governance in the country.

(iv). The Fifth National Development Plan (FNDP)

The Fifth National Development Plan is a medium term planning instrument intended to focus government's policy and programming by developing mechanisms with adequate capacity to allocate resources efficiently and is strongly influenced by initiatives like the Public Sector Reform Programme and the Public Expenditure Management and Financial Accountability Reforms.

2.2.16 Even though the preceding section provides institutional reforms and programmes that target accountability and transparency, and efficiency in the delivery of public services, it is acknowledged that the anti-corruption measures in these reforms and programmes need to be prescribed within an anti-corruption policy framework.

2.2.17 Further, although the institutional reforms and programmes target accountability and transparency, and efficiency in delivery of public services, the obtaining institutional situation as reflected in the National Governance Baseline Survey Report of August 2004 shows that acts of corruption are most prevalent at public goods and services points of delivery.

2.2.18 These service delivery points are public offices where the interaction with the citizenry involves:

- (i) issuance of permits or licences,
- (ii) expediency of legal proceedings,
- (iii) provision of basic public services (in particular education and health), expediency of revision of tax,
- (iv) or expediency of obtaining contracts with state institutions.

2.2.19 The prevalence of corruption at these service delivery points is attributed to:

- (i) Unregulated official discretion;
- (ii) Bureaucratic and complex procedures;
- (iii) Lack of transparency in the exercise of public authority;
- (iv) Poor employee culture and motivation;
- (v) An absence of effective corruption reporting mechanisms;
- (vi) Lack of public and media scrutiny; or,
- (vii) Lack of honesty and integrity.

2.2.20 Challenges

Having reviewed the current institutional framework on the fight against corruption, the following are the identified challenges:

- (i) Enhancing coordinated approaches to the fight against corruption.
- (ii) Enhancing transparency and accountability in the exercise of public authority.
- (iii) Streamlining bureaucratic and complex procedures in public service delivery.
- (iv) Building human, financial and material resource capacity in anti-corruption institutions.
- (v) Building capacity and motivating public service employees.
- (vi) Mainstreaming anti - corruption interventions.

(c) Social Framework

2.2.21 Social aspects such as traditional values, culture, attitudes and behaviours have an impact on anti-corruption efforts. The corrosion of traditional and cultural integrity and moral values has also had implications on corruption in Zambia.

2.2.22 Social preventive measures such as programmes on radio and Television, drama, and the media have previously been used as measures for social mobilisation against corruption. In spite of these efforts, corruption still persists as a major problem and therefore necessitating that these social interventions be reviewed so as to strengthen them.

2.2.23 The National Governance Baseline Survey Report identified certain social inadequacies relating to corruption in Zambia. These are, that:

- (i) Households are more likely not to use a public service they need because of corruption and official costs;
- (ii) Low income citizens are most affected as they have to pay a proportion of their meagre income in bribes in order to obtain a public service; and that
- (iii) There is general lack of public awareness and knowledge on corruption reporting processes, and lack of honesty and integrity in the general population.

2.2.24 Further, the prevalence of corruption at public points of service delivery is not only due to inadequate legal and institutional frameworks, it is also due to inadequate social preventive mechanisms at the points of service delivery, and in social environments.

2.2.25 Challenges

Within the context of social preventive mechanisms at the points of service delivery, the following are social challenges to corruption prevention:

- (i) Enhancing social preventive measures as a means of enhancing integrity and moral values in society.
- (ii) Countering cultural aspects and traditional customs that promote corruption.

3.0 VISION

The Government and the people of Zambia recognise the need to have a corrupt-free society which will enhance accessibility to cost effective public goods and services. It is in this regard that the vision of this policy is to have “A nation and its people that are zero tolerant to corruption”.

4.0 RATIONALE

4.1 The current legal and institutional framework and social context do not match the aspirations for a corrupt free society. This is due to lack of a central unifying and harmonising framework that can act as the national agenda for action.

4.2 Therefore, the harmonised and coordinated actions against corruption defined in this policy will lead to the following:

- (i) Poverty reduction;
- (ii) Good governance;
- (iii) Improved citizen's access to public services;
- (iv) Respect for human rights;
- (v) Respect of positive traditional values;
- (vi) Effective and efficient Government delivery of social services to the citizens; and
- (vii) Promotion of socio-economic and political development.

5.0 GUIDING PRINCIPLES

In recognition of the aspirations of the Government and the people of Zambia to achieve 'zero tolerance' to corruption, this policy is founded on the following principles:

5.1 Constitutionalism and the Rule of Law

This requires compliance with the provision of the Constitution, and other laws of the Republic of Zambia, in a manner safeguarding basic human rights and freedoms.

5.2 Leadership

A committed leadership of unquestionable integrity is a precondition for good governance and for achieving zero tolerance to corruption.

5.3 Ethics and ethical conduct

Ethics and ethical conduct is a moral and social norm that requires doing more than complying with laws and regulations, to doing what is right with emphasis on good or goodness in conduct. This is in line with what an organised group determines for itself and expects its members to comply with and uphold.

5.4 Fight against corruption is universal

This is the duty and responsibility of every person of any gender, age, creed or orientation, and institution - private and public, as the effects of corruption are not discriminatory.

5.5 Fight against corruption is a partnership

This demands development and involvement of strategic partnerships and alliances forming integrity networks that facilitate co-ordination of the activities of all the bodies and stakeholders; exchange of relevant information among major stakeholders; and, provision of assistance to one another.

5.6 Fight against corruption demands consistency

This entails ensuring effectiveness in implementation of measures against corruption through continuous oversight; review of the performance of the corruption prevention measures; and, making regular proposals on enhancing the effectiveness of the measures to the institution that has the authority to carry out the measures.

6.0 OBJECTIVES

The objectives of this Policy are defined at the legal, institutional and social levels as follows:

6.1 Legal Level

- 6.1.1 To harmonise and strengthen anti-corruption laws and regulations.
- 6.1.2 To review and enact relevant legislation in the fight against corruption.
- 6.1.3 To domesticate provisions in international protocols.

6.2 Institutional Level

- 6.2.1 To provide a mechanism for the coordination of anti-corruption programmes in government agencies, private sector and within non-governmental organisations.
- 6.2.2 To enhance transparency and accountability in the exercise of public authority.
- 6.2.3 To streamline cumbersome bureaucratic and complex procedures in public service delivery.
- 6.2.4 To strengthen human, financial and material resource capacity in anti-corruption institutions.
- 6.2.5 To build capacity and motivate public service employees.
- 6.2.6 To mainstream anti-corruption interventions in the routine business of government agencies and the private sector.

6.3 Social Level

- 6.3.1 To develop, review, coordinate and implement social mechanisms for anti-corruption fight.
- 6.3.2 To develop programmes that counter cultural aspects and traditional customs that promote corruption.

7.0 MEASURES

To achieve the Policy objectives, the fight against corruption will involve putting in place legal, institutional and social measures.

7.1 Legal Measures

The prevalence of corruption in Zambia is attributable not only to weaknesses in the legal framework for the fight against corruption, but also to discord in interpretations of corruption by agencies and institutions mandated to provide law enforcement and oversight with respect to transparency and accountability. In recognition of the foregoing, the Government will:

7.1.1 Provide a framework for harmonising and strengthening anti-corruption laws and regulations.

The framework will involve:

- (i) Reviewing and harmonising relevant laws, regulations and procedures in order to strengthen the legal framework for anti-corruption;
- (ii) Reviewing relevant laws and regulations governing the private sector in order to incorporate anti-corruption provisions in such laws and regulations;
- (iii) Reviewing laws and regulations governing public licensing, government procurement contracts or other public undertakings, so that access to public sector contracts will be denied as a sanction for bribery of public officials;
- (iv) Applying administrative options by the employer or administrative tribunals as a necessary alternative to criminal law in restraining abuse of official discretion;

The Ministry responsible for justice, in collaboration with the institution responsible for the fight against corruption, will be responsible for providing the framework for harmonising and strengthening anti-corruption laws and regulations.

7.1.2 Provide a framework for reviewing and enacting legislation in the fight against corruption.

The framework will involve:

- (i) Reviewing and stipulating relevant laws, regulations and procedures in the fight against corruption;
- (ii) Developing and stipulating whistle-blower legislation, including measures to protect whistle-blowers from victimisation for exposing corrupt and unethical practices and protection against false reports by whistle-blowers and complainants.
- (iii) Reviewing and stipulating relevant laws, regulations and procedures on asset and gifts declaration and disposal of recovered assets; and,
- (iv) Developing legislation to regulate electoral competition and resource mobilisation.

The Ministry responsible for justice, in collaboration with the institution responsible for the fight against corruption, will be responsible for providing the framework for reviewing and enacting legislation in the fight against corruption.

7.1.3 Develop a system for domestication of relevant provisions in international instruments to which Zambia is a state party

The system will involve governmental action to ratify and domesticate provisions in international instruments to which Zambia is a state party, after due consideration of public interest.

The Ministry responsible for justice and Ministry responsible for foreign affairs, in collaboration with the institution responsible for the fight against corruption, will be responsible for providing the framework for ratifying and domesticating provisions in the international instruments to which Zambia is a state party.

7.2 Institutional Measures

In recognising that opportunities for and incidences of corruption are as a result of:

- (i) uncoordinated approaches to the fight against corruption;
- (ii) the high frequency of interaction of individuals at points of service delivery to the public;

- (iii) inadequate points of service delivery to the public; and
- (iv) cumbersome bureaucratic and complex procedures in the provision of public goods and services,

The Government will:

7.2.1 Develop and implement a framework for the coordination of corruption prevention programmes in government agencies, private sector and within non-governmental organisations

This measure will involve developing and implementing a framework for the Anti-Corruption Commission (ACC) to facilitate inter-agency coordination of corruption prevention programmes, so that the ACC's role and responsibility is also institutionally and programmatically recognised.

Cabinet Office and the institution responsible for the fight against corruption will be responsible for this measure. The institution responsible for the fight against corruption will also implement a Corruption Prevention Partnership Organisation Programme.

7.2.2 Develop and implement mechanisms for enhancing transparency and accountability in the exercise of public authority

The mechanisms will seek to increase public administration's accountability through:

- (i) Public auditing; and,
- (ii) Promotion of access to information.

The responsible institution will be Cabinet Office, institution responsible for the fight against corruption, and the Ministry responsible for financial matters.

7.2.3 Develop and implement mechanisms for streamlining cumbersome bureaucratic and complex procedures in public service delivery

The mechanisms will involve:

- (i) Reviewing and revising procedures in order to reduce cumbersome bureaucracy and complexity in public service delivery;
- (ii) Developing operational manuals defining procedures for public service delivery;

- (iii) Developing and disseminating public service delivery charters;
- (iv) Promoting e-governance as a means of reducing public service delivery procedures so as to reduce opportunities for corruption; and,
- (v) Decentralising public service delivery points.

Cabinet Office in collaboration with the institution responsible for the fight against corruption will be responsible for reviewing procedures in public service delivery and training, thereof.

7.2.4 Develop mechanisms for strengthening human, financial and material resource capacity in anti-corruption institutions

The mechanisms will involve strengthening human, financial and material resource capacity with respect to:

- (i) Investigative and prosecutorial skills;
- (ii) Corruption prevention skills;
- (iii) Networking skills needed to foster inter-agency co-operation;
- (iv) Requisite material resources; and,
- (v) Corruption prevention capacity building for the judiciary.

The responsible institutions will be Cabinet Office and the institution responsible for the fight against corruption.

7.2.5 Develop mechanisms for building capacity and motivating public service employees

The mechanisms will lead to building capacity and motivating public service employees through institution of incentive mechanisms.

7.2.6 Mainstream corruption prevention in the routine business of government agencies and the private sector

The mechanisms will involve:

- (i) introducing Integrity Committees in public departments and at public points of service delivery. Persons in Integrity Committees

will be the corruption prevention focal point persons and such persons will be already existing persons in the sector with sufficient controlling authority within the reform process;

- (ii) Strengthening measures for preventing, monitoring and reporting corruption in government agencies where such measures already exist at public points of service delivery;
- (i) Reviewing, developing and defining ethical and administrative codes of conduct that prohibit conflicts of interest in order to ensure the proper use of public resources, and promote the highest levels of professionalism; and,
- (ii) Conducting regular education, training and supervision of officials to ensure proper understanding of their responsibilities.

The institution responsible for the fight against corruption will be responsible for training of Integrity Committee members in collaboration with Cabinet Office.

The institution responsible for the fight against corruption will also collaborate in the development and implementation of corruption prevention programmes by Integrity Committee members.

7.3 Social Measures

Social preventive measures are those that take into account both behavioural and attitudinal effects of the institutional weaknesses and social inequities in society and individuals in their day-to-day interaction with the State.

To this end, the Government will:

7.3.1 Review, coordinate and implement social mechanisms in the fight against corruption

The mechanisms will involve:

- (i) Reviewing existing curricula to incorporate elements of corruption prevention and integrity values in education programmes from primary school to tertiary education, and in the informal school system;

- (ii) Establishing and disseminating guidelines for the public on how to report cases of corruption to government law enforcement agencies;
- (iii) Publicising provisions in legislation on corruption prevention, or relevant to corruption prevention;
- (iv) Facilitating financial and material support to non-governmental organisations that promote integrity and combat corruption within communities;
- (v) Facilitating development and dissemination of sector level corruption prevention policies;
- (vi) Promoting citizen participation in corruption prevention; and,
- (vii) Enhancing community awareness programmes on corrupt practices before, during and after elections.

The institution responsible for the fight against corruption, in collaboration with the Ministry responsible for education, provincial administration and Corruption Prevention Partnership Organisations shall be responsible for this mechanism.

7.3.2 Develop programmes that counter cultural aspects and traditional customs that promote corruption.

The mechanisms will involve:

- (i) Facilitating traditional rulers involvement in social mobilisation against corruption; and,
- (ii) Enhancing community awareness programmes to counter cultural and traditional aspects which promote corrupt practices.

The institution responsible for the fight against corruption, in collaboration with the Ministry responsible for education, provincial administration and Corruption Prevention Partnership Organisations will develop mechanisms for enhancing integrity and moral values in society.

8.0 IMPLEMENTATION FRAMEWORK

The implementation framework will be in line with the general policy vision of the nation.

8.1 Institutional Arrangements

- 8.1.1 The institution responsible for the fight against corruption will be the lead agency on the Policy's implementation strategy, and will report as set out in the guidelines by Cabinet Office.
- 8.1.2 The institution responsible for the fight against corruption, in collaboration with Cabinet Office, will be responsible for efficient and effective implementation, coordination, monitoring and evaluation of the Policy.
- 8.1.3 There will be instituted in every government agency Integrity Committees that will be responsible for internal corruption prevention, in order to ensure that individual organisations are responsible for corruption prevention in their respective organisations.

8.2 Legal Framework

- 8.2.1 For the Policy measures identified to be implemented, the Government will:
 - (i) Enforce and enact or amend where necessary laws and procedures that support the fight against corruption;
 - (ii) Review, strengthen and amend weak laws that do not contribute effectively to the fight against corruption;
 - (iii) Review and harmonise laws, definitions, and practices to be in line with regional and international instruments, protocols and conventions that promote the fight against corruption.

8.3 Monitoring and Evaluation

- 8.3.1 The Government, through institutions responsible for the fight against corruption, will monitor the Implementation Plan. In order to fulfil this, the Government will need to:

- (i) Develop and implement a monitoring and evaluation system for the implementation of the Policy;
- (ii) Adopt a standard monitoring and evaluation system for all activities that will be implemented under this Policy; and,
- (iii) Ensure that every unit or institution taking part adopts the monitoring and evaluation mechanism.

8.4 Resource Mobilisation

The Government is committed to funding the implementation of the Policy, and in addition, will mobilise resources from:

- (i) Internal resources Private sector;
- (ii) External resources - Cooperating partners and Secretariats of international conventions to which Zambia is state party.

