

ADMINISTRATIVE CORRUPTION IN SOUTH AFRICA

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1. DEFINITION OF CORRUPTION

The statutory definition of corruption in South Africa is found in section 1 of the **Prevention of Corruption Act, 1992 (Act 94 of 1992)**:

- any person shall be deemed guilty of a corruptible offence whenever such a person corruptly accepts, obtains, or agrees to accept any gift as an inducement or reward for himself/herself or any other person, the result of such an action leading to favour or disfavour being shown to the party offering the inducement; and
- any person who corruptly gives or accepts any gift from a party as an inducement or reward for rendering services on behalf and in favour of the designated party shall be deemed guilty of a corruptible offence.

2. CORRUPTION AND THE INTERPRETATION OF VALUES AND NORMS

Corruption, as a phenomena, is also complicated by the conflict of values and norms as they differ from culture to culture. Behaviour regarded as deviant in terms of Western democratic values and norms may be regarded as acceptable behaviour in a developing African state (Malan 1980:16).

It can happen that the tradition bound Black public official in South Africa is, according to his/her values and norms, of the opinion that he/she is entitled to receive gifts or compensation for services rendered as he/she would have been entitled to such gifts or compensation when viewed in terms of the practice of his/her traditional culture. However, in terms of Western style bureaucratic practice based on Western values and norms, if a member of the public wants to offer a public official a gift or compensation if a certain function was to be fulfilled, it would entail bribery. It is thus essential for a public official to place

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national and community needs ahead of his/her personal and family interests, values and norms. However, the presence of strong kinship bonds will compel the public official to look after the needs of not only immediate family members but even an extended family system (Caiden 1977:305).

3. MALADMINISTRATION IN GOVERNMENT DEPARTMENTS IN SOUTH AFRICA BEFORE 1994

Examples of corruption found in the case studies include nepotism, ghosting, phony contracts, bribery, fraud, kickbacks and greed. In the **Department of Development Aid** there was the Pickard Commission of Inquiry which found cases of tender fraud, favouritism, lack of accountability and an all pervasive culture of corruption as a result of the apartheid system. In the **Department of Education and Training** there was the Van den Heever Commission of Inquiry which carried out a lengthy investigation into irregularities around book contracts, the sale of video equipment and the arrangement of sending youths to youth camps run by friends and family of employees. During its investigation it found cases of fraud, bribery, kick-backs, nepotism, ghosting and a general lack of accountability.

3.1 DEPARTMENT OF DEVELOPMENT AID (PICKARD REPORT)

The former Department of Development Aid was established to provide effective development aid to self-governing national states and to develop trust land. The Department of Development Aid concentrated primarily on the development of the Black nations in co-operation with, and as required by, the self-governing national states (South African Yearbook 1986:146).

The then State President, FW de Klerk, appointed a Commission of Inquiry into alleged corruption in the Department of Development Aid as a result of pressure exercised by Parliament's public accounts committee. The latter made the recommendation after a probe into the finances of the Department of Development Aid, by which it had been discovered that at least R50-million in taxpayers money had been lost in corrupt deals between officials and outside contractors (Pretoria News 3 December 1991:2; Sunday Times 20 October 1991:2).

The state commission under Mr Justice B de Villiers Pickard (known as the Pickard Commission) in 1991 discovered a culture of corruption and

irregularities, tender fraud, favouritism and nepotism, and a lack of accountability. The before-mentioned examples of corruption will now be discussed.

(i) Culture of corruption

It seems that the apartheid era contributed to the development of a culture of corruption where "public officials felt they were missing out if they were not helping themselves ... many of these public officials had become disillusioned by their futile efforts to serve the apartheid ideology of administering the removal and resettlement of thousands of black people. (They) have developed a syndrome of a lack of enthusiasm to the extent sometimes of apathy and the huge amounts of money made available to the department became too tempting to resist for some officials. Self-preservation and self-protection against criticism have become matters of primary importance even to the detriment of the very cause itself" (Pickard Report 1991:112-3;147).

The attitude in the Department of Development Aid later became so blatantly dishonest that even officials who under other circumstances would never have thought of becoming involved in such corrupt action, began debating that if others could get away with such behaviour, why should they disadvantage themselves by also not becoming involved (Pickard Report 1991:118). The result of the development of a culture of corruption in the Department of Development Aid was that a number of public officials in co-operation with a number of contractors, producers and developers in the private sector, became involved in deviant behaviour for personal gain to the detriment of the people they were supposed to serve (Pickard Report 1991:120-1).

Already in 1984, irregularities had been occurring at an alarming rate in the Department of Development Aid with an internal inquiry launched by the Department's inspectorate in the Department's administration and handling of projects, having already discovered the following gross irregularities: site officials of national projects had their own order books from which they could order supplies without prior notification from headquarters. Most acquisitions were never recorded; inspectors discovered heavy duty vehicles in rural areas for which no records could be found; on a particular site, several three-wheel motorbikes were bought for employees to save wear and tear on other vehicles. It was also discovered by inspectors that these motorbikes were frequently used for joyrides by employees' wives, girlfriends and friends; and a nightwatchman

guarding the Botshabelo vehicle park was prepared to let the inspectors steal a road scraper for a tip of R10 (Sunday Times 26 May 1991:3). It is thus not surprising given the above-mentioned that the Pickard Commission of Inquiry into the Department of Development Aid found that money, assets, property, materials, labour etc., had been moved between the Department, the South African Development Trust and the South African Development Trust Corporation (SADTC) without any proper control being exercised over these actions.

Other cases of corruption included the following: fictitious claims submitted by contractors for material and labour which were subsequently paid for; official dealings with private firms which offered services typified by fraud, theft, corruption and bad work. These firms in return gave loans and gifts to officials (Sunday Tribune 10 May 1992:4); a hunting rifle was bought with taxpayers' money, ostensibly for self-defence, but then used on private outings to hunt state game in government vehicles in government time (Daily News 28 May 1992:6); a consultant claimed nine hours travelling time for each hour spent on a department project; a number of officials claimed travel and subsistence costs for work away from office while on a deep-sea fishing expedition paid for by a private company; and contractors were paid for houses that had never been built (Southern Africa Report 15 May 1992:4-5).

It is thus not surprising that in lieu of the above-mentioned, Mr Justice Pickard concluded: "Better than this I can't put it than to allege that theft, dishonesty, corruption, fraud, negligence and unauthorized activities resulted in huge losses. It must certainly run to many millions, if not billions" (Pickard Report 1991:118).

(ii) Tender fraud

In his report, Mr Justice Pickard made mention of instances where deliberate attempts were made to mislead the Tender Board through the withholding of important facts which could have influenced the eventual awarding of the tenders. In 1985, a submission was made to the Tender Board for the hiring of earthmoving equipment for a period of 50 days (400 working hours) to the amount of R84 000. After receiving the necessary approval from the Tender Board, the Department of Development Aid simply continued to hire these machines for a further 2 years to the amount of R1,1 million without first going back to the Tender Board to receive new approval for changes in the original tender. What thus happened, was that after approval had been obtained from

the Tender Board for a relatively small, inexpensive tender, the Department of Development Aid one-sidedly extended it to a far larger and more expensive tender without the necessary authorization. Thus a R84 000 contract was exceeded by almost R1,1 million (Pickard Report 1991:127-8). Another example of tender fraud was the purchase of portable toilets which had been estimated by the Tender Board to cost R2 million but had been increased to R14 million over two years without referral back to the Tender Board (Pickard Report 1991:128). These unwanted, unused portable toilets were scattered in rural areas by the Department of Development Aid. Specifications for tenders for the South African Development Trust to obtain the toilets had been prepared by two officials in such a way that only a firm that they owned, would be able to meet the specifications laid down by the Tender Board. As such, their firm was awarded the tender and over the years sold these toilets to the Department of Development Aid (Sunday Times 10 May 1992:6).

(iii) Nepotism and favouritism

It came to the attention of the Commission during its investigations that certain officials in the Department of Development Aid had been promoted quicker than what would have been the norm especially as these officials had not been found particularly promotable or competent (Pickard Report 1991:97-8).

One case clearly relates to nepotism and involved the daughter of a now retired deputy director. She started work as an administrative assistant in the Department of Development Aid on 29 November 1974 after qualifying as a teacher. By 1 August 1989 she had been promoted through various ranks to deputy director and throughout her career, she was associated with the Department Town and Land Affairs and worked in the same directorate as her father. Her promotion was signed by her father and she was retained in the Directorate of Town and Land Affairs on his recommendation although this entailed that another senior official had to be transferred elsewhere. Her study bursary was also taken over by the Department of Development Aid, which was against official policy, on the intervention of her father (Pickard Report 1991:97-8).

(iv) Lack of accountability by senior management/officials

In his report, Mr Justice Pickard stated that the Department of Development Aid could be regarded as a complete public service in the small

with branches comparable to the entire greater Public Service with its many branches. The Department of Development Aid had its own Tender Board and "departments" of Administration, Finance, Public Works, Agriculture, Town and Land Affairs, Information, Social Welfare, Research, Constitutional Development, Acquisitions, Development, Nature Conservation, Planning, Economic Services and Self-government; and all this only for Blacks (Pickard Report 1991:111-2). Furthermore, it appears as if the top management structure of the Department of Development Aid was pre-occupied more with political decisions than with executive matters. It managed a budget of nearly R6 billion per year with the figure for 1990/91 being R5 837 683 000 (approximately 11 per cent of the total state expenditure of the Central Government). Of this amount, approximately R5,0 billion was transferred to the self-governing territories and the department took no further responsibility for it. The remaining portion of the Department's annual budget was expended and controlled by the Department itself, either as part of its own activities or that of the South African Development Trust or the South African Development Trust Association. It was in regard to this portion that Mr Justice Pickard found the performance of the Department of Development Aid to have been all but satisfactory as management was not up to its task; that controls and control systems were grossly neglected; that personnel was inadequate not only in numbers but often in quality; that planning was inadequate and that dishonesty and abuse was rife (Pickard Report 1991:145-7). Mr Justice Pickard stated in his report that "one fact stands like a pole above water, viz. that since 1984 at least top management of the department knew throughout of the problems (of widespread corruption and inefficiency)" (Pickard Report 1991:145-7).

(v) Recommendations by the Pickard Commission of Inquiry

Mr Justice Pickard made the following recommendations concerning the results of his investigation into the Department of Development Aid: "In my view, the sooner the Department and its satellites - South African Development Trust and the South African Development Trust Corporation - are physically dismantled, their staff transferred to all ends of the public service earth and their functions distributed over as wide a spectrum as possible, to as many other appropriate bodies as possible, the better. The weaknesses and inadequacies of the Department, although often concealed and not acknowledged, have been known for many years by the Department itself. I am convinced that the Department generally is so terminally ill that any effort to help it recover now will not be successful, and that the time has now arrived to turn off the life-

support system"(Pickard Report 1991:148).

(vi) Reaction to the Pickard Commission of Inquiry

The Pickard Report was kept secret whilst police investigations were underway and was released on May 7, 1992. Thirty two dockets were opened as a result of investigations into the Department of Development Aid's irregularities. Six cases were brought to trial but the accused were acquitted, seventeen cases were withdrawn by the Attorney-General whilst nine cases were considered by him (Financial Mail 15 May 1992:28). Only eleven officials were suspended pending a departmental investigation and none of them were reinstated (Sunday Times 10 May 1992:4). According to the then State President, FW de Klerk, the Department of Development Aid was to be disbanded by March 1992 with its officials being re-deployed to other state departments. De Klerk gave the following reason for the disbanding of the Department of Development Aid: "The decision to disband the Department of Development Aid arose from the Government's view that departments, concerned with the planning, co-ordination and provision of services should be directed to develop all communities"(Sunday Times 20 October 1991:2).

However, it was the reaction of the National Party to the Pickard Report that clearly showed that political office-bearers were not prepared to accept responsibility for the wrongdoings of their departments. Former Minister Dr Gerrit Viljoen saw no reason to take the political rap and stated that a Minister in South Africa was not expected to pay for any contraventions in his/her department, even if it had been serious. Dr Gerrit Viljoen argued further in his defence, that his actions undertaken against alleged corruption and maladministration from 1984-1989 had been sufficient to absolve him of political responsibility despite the fact that these actions had not appeared to have been successful (Financial Mail 19 June 1992:36). Dr Gerrit Viljoen stated further that "the fact that a Minister is responsible and answerable basically means responsible and answerable to give proper account, particularly to parliament. But it certainly does not need to mean responsible and answerable to personally take the blame in every instance as if he is the guilty person. Taking everything into account, I suggest this was a set of circumstances that created enormous demands when it came to maintaining meticulous and strict control, as the political head, over the professional side of total administration and organization in every detail" (as quoted in the Financial Mail 19 June 1992:38).

However, what makes this mitigation of blame by Dr Gerrit Viljoen even more remarkable, was his allegation that he had taken action against alleged corruption and irregularities from 1984-1989. That this had not been the case, was contained in a special report to Parliament by the then ombudsman, Mr Justice PJ van der Walt, wherein it was stated that the former Minister of Development Aid, Dr Gerrit Viljoen, had turned down his proposal in 1988 that a commission of inquiry should investigate irregularities in the Department of Development Aid: "On or after December 8, at my request, I had an interview with the Minister of Development Aid, Dr Gerrit Viljoen, and proposed a commission of investigation. I later got the reply that a commission would not be appointed" (The Citizen 19 June 1992:8). To further accentuate the non-accountability stance of the political office-bearers of the National Party, the Pickard Commission of Inquiry was eventually appointed by President de Klerk on the insistence of the Parliamentary Joint Commission on Public Accounts. This was the first time that a select government committee - on public accounts - recommended such a step to the President (The Citizen 19 June 1992:8; Sunday Times 20 October 1991:2).

3.2 DEPARTMENT OF EDUCATION AND TRAINING (DET)

The Department of Education and Training was established to provide education and training services for black people falling under the direct jurisdiction of the South African government (South African Yearbook 1986:147). The Commission of Inquiry was established in 1988 after repeated reports of irregularities had appeared in the press, especially in Financial Mail who was the first to report on irregularities and dishonesty pertaining to the DET (Financial Mail 2 September 1990:43). The DET was investigated by a state commission headed by Mrs Justice E van den Heever from 1988 to 1992 (the Van den Heever Commission of Inquiry into irregularities in the Department of Education and Training) which discovered numerous cases of corruption, fraud, bribery, kick-backs, ghosting and a general lack of accountability. The findings of the Commission of Inquiry were published in four reports, of which the Second, Third and Fourth report contain examples of cases of corruption as stated above.

(i) Second Van den Heever Commission Report

The Second Report published in October 1990, dealt with several irregular printing contracts which indicated fraud. It was found that during 1985-1987,

orders had been placed telephonically and were then not followed up with a written order as should have been the case, indicating that fraud had taken place. In many cases, payments were done on the basis of a remittance advice which itself was highly irregular (Van den Heever Second Report 1989:132). There were examples where quotations were obtained after an order had already been placed or where false quotations were obtained if the tender was going to go to the lowest quotation. Some of these so-called quotations did not even involve the same service, some were quoted on letterheads of companies that no longer existed or, in some cases, signatures were falsified, again clearly showing that fraud had occurred (Van den Heever Second Report 1989:132-3).

(ii) Third Van den Heever Report

The **Third** Report of the Commission, released in September 1990, discovered cases of bribery and fraud, kick-backs, nepotism, favouritism and ghosting and found that a culture of dishonesty was all-pervasive in the DET.

(a) Bribery and fraud

Amongst others, a DET director made himself guilty of bribery by insisting that a holiday resort at Umgababa pay him for the amount of DET business that he had brought them. The holiday resort at Umgababa had to pay his and his family's total account for the duration of a course that was held at the holiday resort at Umgababa from 13-18 August 1985. This was in return for the accommodation expenses of the course leaders who would otherwise have been accommodated free of charge. In 1985, the DET director and his wife were paid a further R700, which included "more pocket money". In 1987, the holiday resort at Umgababa paid him R2 189-71 with other officials also having been subsidized. A cheque of R350 was also paid to the DET official by Rand Coach Tours which had done a lot of business with the DET (Van den Heever Third Report May 1990:84-6).

On 18 April 1989, the Treasury Department was approached for the approval of a number of expenses that had been and would be undertaken for the promotion of sport, youth and culture and was also requested to backdate this approval to 1 April 1987. In this regard, mention was also made of the payment of deposits to Mooiland - a farm earmarked as a youth camp - with no proper paper work accompanying the request, again an indication of the

occurrence of fraud. What the DET actually wanted, according to the Commission, was approval of a blank cheque, as only a synopsis was provided with regard to running expenses which would be incurred with the presentation of courses, classes, etc. Reasons given for the request for the deposits, were that service providers often asked for a deposit or full payment before or during the commencement of a project. However, it was discovered that no Black sport/youth/culture organization except Mooland, had been asked to carry the burden of deposits (Van den Heever Third Report May 1990:78-9).

(b) Nepotism and favouritism

The former Deputy Director-General of the DET favoured his son's company and then through documentation, tried to cover up this favouritism as stated in the First Report of the Van den Heever Commission. This Deputy Director-General was also aware of the many contracts his son's companies had obtained from the DET and he and his subordinates went out of their way to let the irregular favouring of his son appear to be regular behaviour, as stated in the Second Report of the Van den Heever Commission. The Commission proved dishonesty or that strong reason for dishonesty existed within the circle of supporters and confidants of the Deputy Director-General. His son as well as other DET officials were also criticized in the Second Report (Van den Heever Third Report May 1990:82). Over a period of 5 months during the 1987/88 financial year, the former Deputy Director-General's friend had received nearly R2 million from the R4,8 million put aside for the renting of private terrains, that is to say 41,5 per cent. This friend also operated under the names of many companies, viz. Olympic Training Association, Olympic Sports, Broederstroom Training Center, AWJ Construction, Security Structures and Recreational Development Center. Use was made of these companies, it appears, for either tax evasion or for making it difficult for his tracks to be followed (Van den Heever Third Report May 1990:82-3).

(c) Ghosting

The Van den Heever Commission of Inquiry also found that a friend of the former Deputy Director-General had received R50 000 for non-existent camps - an example of the practice of ghosting - leading Mrs Justice van den Heever to state the following: "It is difficult to believe that so many irregularities could take place within one department ... without the knowledge of the deputy DGs, the DG, the Treasury, the Auditor-General...Why was it left to the press to open

this Aegean stable?" (as quoted in the Financial Mail 21 September 1990:43).

During its investigations, the Van den Heever Commission heard testimony that as a reward for his favouritism by the DET, a friend of the former Deputy Director-General had been expected to share a certain portion of his profits with unknown "officials" from the DET. One Holmes, who under the name of Grassmester had done a lot of business with the DET, had to organize a hunting trip for senior DET officials, to which the friend of the Deputy Director-General had also been invited. After this, Holmes, together with this friend, was offered the opportunity to act as agent between the DET and a sport school. Then the friend informed Holmes about the amount of profit they could make after the DET's officials have received their kick-back (Van den Heever Third Report May 1990:83-4).

(d) Lack of accountability

Irregularities and dishonesty were the order of the day with financial control being so ineffective that senior DET officials could do what they wanted and also developed their own rules for running matters. For all practical reasons, financial control did not exist. Documentation was so vague, payment advices were issued and honoured on such a regular basis, that according to the Commission, it would take a team of detectives and accountants to find out exactly what purpose the money was used for and whether these funds had actually been spent or had just been divided among the officials, especially those officials who were employed in the Welfare Subsection of the DET. Ex post facto Treasury permission and Tender Board approval were obtained on the strength of documentations of which the contents were either so vague that it was difficult to ascertain what they were all about or misrepresentation based on a need to know basis - administrative secrecy. The Tender Board was also not watchful in regard to its line of action regarding the hiring of private terrains. Treasury, in turn, was not inquisitive enough when allowing the payments of deposits for youth camps (Van den Heever Third Report May 1990:90-3).

(iii) Finding of the Van den Heever Commission of Inquiry

The major concern of the Commission after its second report, was the lack of control and responsibility exercised by both the Purchasing Department of the Government and the Department of Finance. Quite often quotations were approved, despite the fact that no barometer had existed against which they

could be tested. That these deficiencies were not picked up by the Purchasing Department or internal audit, showed a lack of training, inquiry or even of time due to pressures of work (Van den Heever Second Report 1989:145-6).

(iv) Reaction to the Van den Heever Commission of Inquiry

The Democratic Party's education spokesperson stated "that it was regrettable that so much taxpayer money had been wasted because of the poor handling of the Education and Training portfolio by Viljoen and his successor, Stoffel van der Merwe" (The Star 10 March 1990:3). He furthermore stated that the DET "had repeatedly been shown to be riddled with officials who were educationally out of touch, administratively incompetent and imbued with discredited Verwoedian ideologies" (The Cape Times 21 September 1990:5). There would be no recovery in black education until the DET was abolished as the successive reports of the Van den Heever Commission of Inquiry had seriously discredited numerous officials. According to the spokesperson, "the revelations of illegality, corruption and incompetence are alarming, but equally disturbing is the unwillingness of the government and the department to take tough and decisive action against those responsible. At the very least, officials against whom there are proven prima facie cases of serious irregularity should be suspended immediately until the judicial process has been completed. The cover-up started with the government's reluctance to appoint a judicial commission in the first place and has continued ever since" (The Cape Times 21 September 1990:5). This reaction of the Democratic Party should be viewed against the steps which the government took since the Van den Heever Reports had first been published. Concerning the issue of ultimate political responsibility, the then responsible Minister, Dr Gerrit Viljoen, was simply allowed to retreat from the whole sordid affair without having to be accountable for the actions of his subordinates. Such action was possible because in South Africa a system functioned where people who were accused were merely allowed to continue in their posts, move to another department or slide into retirement. Also, the principle of ministerial responsibility was no longer honoured by South Africa, allowing Cabinet Ministers to "preside happily over corrupt inefficient departments, safe in the knowledge that it is the officials who will take the blame when this is exposed. Dr Viljoen headed the Department responsible for one of the most sensitive areas of South African life. Effectively, he was responsible for the misuse of funds earmarked for Black education which is grossly inferior and where there are enormous backlogs. It is wrong that Dr Viljoen should be allowed to simply wash his hands of what has taken place." (Weekend

Post 22 September 1990:12).

4. MALADMINISTRATION IN GOVERNMENT DEPARTMENTS IN SOUTH AFRICA - POST 1994 ELECTION

Corruption has also been prevalent in government administration after the 1994 election and seems to be on the increase. Corruption takes place in all three tiers of government - central, provincial and local - and appears to take on the same format as discussed in the above-mentioned case studies. According to Mr Justice William Heath, who is heading a special task team tasked with the rooting out of corruption at all levels of government, "syndicates engaged in corrupt activities are active throughout the entire spectrum of the country and are flourishing as had never been the case in the past" (as quoted in Die Volksblad 26 February 1998:1).

Figures released by the Department of Health in the second half of 1997, show that more than R4,3 million had been stolen from feeding schemes in South Africa's nine provinces, with the Eastern Cape accounting for the lion's share of misappropriation - more than R2,3 million - as a result of theft, corruption, fraud or mismanagement. In the Northern Province, police have been investigating the theft of at least R1,6 million after a member of the school feeding project had used the money to buy food for personal use. Investigations were also carried out against another member of the project, for fraudulently using government cheques to spend R83 000. In Mpumalanga, at least R30 000 was lost after project members had stolen cheque books and used them fraudulently (The Star 20 August 1997:1). The Democratic Party stated that the R4,3 million that had been stolen could have provided meals to at least 8 million schoolchildren and also inquired from the Minister of Health, Dr Zuma, what steps had been taken to ensure cost-effectiveness and honest delivery of school meals to the poorest children: "... the scheme was misconceived and mismanaged from the start. In the Eastern Cape, the entire scheme was suspended, then reinstated in 1996 after a R35 million grant from the Department of Health; yet at least half the misappropriation happened in that province" (The Star 20 August 1997:1).

Cases of ghosting also occurred - again in the Eastern Province - amongst pension payouts at the Cecilia Makiwane Hospital. One woman was arrested after she had allegedly claimed a R940 cheque on behalf of another person who had died in May 1997. Another suspect was an assistant general labourer at the

Nkgubela chest hospital who collected a social pension cheque despite the fact that she was still employed by the government (Eastern Province Herald 11 September 1997:8).

4.1 DEPARTMENT OF HEALTH - KWAZULU NATAL

In 1994, the Department of Health in KwaZulu Natal set up a Commission of Inquiry headed by Advocate Kenneth Mthiyane to investigate fraud and corruption in 12 KwaZulu hospitals. This investigation has as yet not been completed but those cases of corruption which have been investigated by the Commission do not differ much from that discussed in the case studies mentioned above.

(i) Bribery and Fraud

Evidence given by a former tutor to the KwaZulu Natal Department of Health's Commission of Inquiry, showed that fraudulent exam results, leaked test papers, a high failure rate of student nurses which showed lack of discipline, and bribery and corruption on a massive scale formed part of the everyday running of the Edendale Hospital nursing college. Students whose matriculation results clearly did not meet the entrance requirements were furthermore registered for training. The Commission was also shown copies of low semester marks that had been "inflated" and tampered with to such a large scale, that the outside moderators had begun to complain. A case of bribery was revealed when a security guard testified before the Commission that he had been approached and "requested to pay R1 600 if I wanted my mother and wife to be employed at Edendale Hospital" (Sunday Tribune 22 June 1997:3). Other cases of fraud unearthed by the Commission included theft of cheques, irregular quotation procedures, overcharging the department for services provided and misuse of petrol cards and vehicles (The Sowetan 15 May 1997:2).

4.2 CORRUPTION IN THE FREE STATE PROVINCE

Various forms of corruption occurred in the Free State provincial government since the 1994 elections and in different government departments. Cases of corruption include fraud, favouritism and nepotism and a general lack of accountability.

(i) Fraud

A number of cases related to fraud were discovered in investigations undertaken by the South African Police Service into the financial affairs of the former Department of Economic Affairs and Tourism. A former Assistant Director: Tourism who had been asked by a Bloemfontein businessman to reserve office space for him in the new Tourism Building in Park Road, was paid an amount of R5 000 based merely on an oral agreement - no written official documentation was provided. The Department of Tourism paid an amount of R20 000 for studies to an employee of the Department of Economic Affairs and Tourism and not directly to the tertiary institution, which should have been the case. The request for this amount was made on a normal Sub-sistence and Travel Form and the reason for the funds was "financial support for MBA studies" (Die Volksblad 7 March 1997:2).

(ii) Lack of accountability

A general lack of accountability and responsibility and a general dereliction of duties were evident in the Department of Health according to a report submitted to the Free State Legislature by the MEC for Health, resulting in more than 341 disciplinary hearings since 1995. In 1995, disciplinary hearings were held against 20 drunk officials whilst the number for the same offence in 1996 was 26. Four were allegedly asleep on duty in 1995 and 18 in 1996. In 1995, 12 cases and in 1996, 22 cases relating to theft were investigated and in 1995, 20 officials were absent without leave with the number for 1996 being 44. Fraud occurred in 1996 when an official made use of his brother's identity document to ensure employment in the Department with another two officials being prosecuted for fraud in 1995. As a result of fist fights and attacks, 14 officials were prosecuted in 1996; two more officials were warned in 1995 regarding the unauthorized usage of state vehicles whilst another five officials were reprimanded for arriving late for work. Other cases necessitating disciplinary hearings included swearing or the making of threats (8 cases in 1995 and 12 cases in 1996); refusal to carry out orders (8 cases in 1995 and 13 cases in 1996); contravention of the prescribed code of conduct (1 case in 1995 and 5 cases in 1996); the misuse of government property (2 in 1996); and negligence (2 cases in 1996) (Die Volksblad 12 December 1997).

(iii) Nepotism and Favouritism

A case of nepotism was tabled in the report of the 1997 Commission of Inquiry into the controversial private company, Agri-Eco, as well as the Rural Foundation and the Rural Strategy Unit (RSU) resorting under the auspices of the Department of Agriculture. A senior employee of Agri-Eco had appointed his wife with a salary of R15 000 a month and a travelling allowance of R2 300 per month (Die Volksblad 21 January 1998:1). Regarding the Department of Public Works, Transport and Roads, questions were raised in the Legislature about the appointment of a provincial control inspector without the applicant being in possession of a driving license which was a pre-condition for the post. The woman who was appointed had a B.Admin. degree, had previously been employed as a senior lecturer at a nursing college and was regarded as a suitable appointee because it was a post which entailed training. The woman was in possession of a learner's license and in terms of the Public Service Act, a period of 12 months was granted for a person to ensure that all the necessary requirements for the post had been met (Die Volksblad 22 August 1997:7).

To conclude, it has become evident from the case studies, that gross misuse of taxpayers' money occurred at the hands of the authorities and that corruption, such as fraud, was the rule rather than the exception in these cases. What had also been clear, is the lack of responsibility of the political office-bearers to this state of affairs. This had certainly contributed to the pervasive culture of corruption. It seems as if public officials argue that political office-bearers - who were in most cases elected by the people of the country to look after their interests - fail to accept ultimate responsibility, why should they act any differently? This viewpoint is supported by the following comment made in the Southern African Report (1992:5-6): "The extent of the corruption of the values of public service is shown by the refusal of anyone in authority to take responsibility and the failure of the politicians to resign. This has become standard practice in South Africa..."

5. MEASURES TO CONTROL CORRUPTION

It is essential that measures exist, for even if they cannot eradicate corruption completely, at least they can and do play an effective role in controlling it. It is essential to remember that corruption pervades the entire environment and does not necessarily just focus on a particular area and that whatever measures are implemented, it is necessary to look at the broad spectrum of the

occurrence of corruption.

Accountability by both the public official and the political office-bearer can be regarded as forming the "cornerstone of democracy and civilization" (Hillard 1991:16). It is essential for any government that public officials should be held answerable and ultimately removable for their conduct of public business. Responsibility for action or inaction is the foundation of accountability and the personal integrity and public accountability of each and every political office-bearer. Even that of the President/Premier are essential to ensure clean government (Wronsley 1986:164-6). Professor Klitgaard sums it up colloquially by stating that "the first step to combat corruption is to fry the big fish" (as quoted in Wronsley 1993:14). Political office-bearers should be forced to resign if found guilty of committing an offence. The policy of transferring ministers from one portfolio to another without demanding their resignation is usually inadequate in combating corruption. The case studies discussed have indicated the lack of political accountability prevalent amongst the political office-bearers in South Africa. Despite serious incidents of maladministration and corruption, the responsible Ministers did not resign but were redeployed to other portfolios; at the same time, the Ministers did not accept responsibility for the actions of public officials deployed in their departments, resulting in the all-pervasive culture of corruption as shown in the subsequent commissions of inquiry.

Commissions of inquiry into alleged maladministration can play a useful function if the appointments to such a commission of inquiry is made with the minimum of government interference. It would be best if the commission of inquiry was made up from independent jurists as this would make it clear to interested parties that it was impartial and not government rigged or merely brought into existence to placate interested parties. Reports published by commissions of inquiry should be released to the public without delay (Hillard 1994:22). In South Africa, the judiciary has been used in a number of commissions of inquiry, for example, the Van den Heever and Pickard Commissions of Inquiry. South Africa has experienced a number of commissions of inquiry since 1948 but instead of serving the purpose for which they had been established, they have, in most case, gathered dust on government shelves for the simple reason that the then government of the day - the National Party - did not agree with the recommendations contained in the reports. Commissions of inquiry should be an effective instrument to combat corruption as they bring corruption to light where ordinary police methods might have been inadequate. However, their success depends on how efficiently the investigation was conducted. With

regard to corruption, they can be a massive aid to the administration of justice (Hiemstra 1991:94-6).

An important measure in the fight against corruption, is appropriate legislation which not only deals with corruption, but should also contain the necessary penalties and fines to serve as a deterrent. Legislative measures should not be drawn up in such a manner that they leave the impression that public officials have a tendency toward unethical behaviour. Measures should rather be drawn up which would prevent officials from being guilty of unethical behaviour (Andrews 1994:39). In South Africa, the following legislative measures exist that can be used in the fight against corruption exist: **Investigation of Serious Economic Offences Act**, no. 117 of 1991; **Corruption Act**, no. 94 of 1992; **Public Protector Act**, no. 23 of 1994; **Audit Arrangement Act**, no. 122 of 1992; **Special Investigating Units and Special Tribunals Act**, no. 74 of 1996; **Proceeds of Crime Act**, no. 76 of 1996; **Auditor-General Act**, no. 12 of 1995; **Reporting on Public Entities Act**, no. 93 of 1992; and the **Public Service Act**, no. 103 of 1994. The before mentioned legislation serves as an indication that the necessary legislative measures exist to combat corruption; however, the success of these measures depends on whether they are going to be implemented or only going to gather dust. In South Africa, when viewed against the case studies discussed, it is clear that these laws were not adhered to, resulting in the manifestations of corruption in these case studies.

In terms of the **Constitution of South Africa**, no. 200 of 1993, the office of ombudsman is replaced by the office of the Public Protector who will investigate all cases of corruption and maladministration. The importance of this office cannot be underestimated and the Public Protector will fulfil the following functions: to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice; to report on that condition; and to take appropriate action. However, it is always of importance to remember that the person who fulfils the function of the ombudsman/public protector must be a non-partisan appointment and conduct his/her investigation independently in his/her endeavour to root out abuses of power.

The main function of public sector auditing is to ensure after the closure of books for a financial year, the regularity and accuracy of the transactions recorded in the books as well as measuring performance or value for money, thereby implying its function as a measure to combat corruption. This function

constitutes comprehensive auditing, with its focus falling on systems and transactions. As a result of formal auditing, corruption to the value of R6 million performed by public officials and the public was made public (Wronsley 1994:15-6). In his fight against corruption, the Auditor-General must be allowed to have free access to all books of account and any other supporting or even incriminating documents (Hillard 1994:210). The Auditor-General demands final accountability from the executive office and his audit forms the basis on which the legislative branch can demand accountability from the executive authority. The legislature, after perusing the Auditor-General's report, must be satisfied that its objectives and short-term targets have been met satisfactorily. Amongst the duties of the Auditor-General, is to ensure honesty in public financial management and to guarantee the sovereignty and political supremacy of the legislature over the executive authority in public financial matters (Gildenhuys 1993:92-3).

A code of ethics fulfils a primary function in the fight against corruptible and unethical behaviour on the part of public officials and political office-bearers and should be regarded as being the most important measure to combat corruption. As a supplement to legal stipulations, there are also regulations, codes, procedural prescriptions and guides of which a code of ethics and Public Service Regulations can serve as an example. Implementation of these measures would not only be of assistance in combating corruption, but also maladministration. The guidelines provided for in a code of ethics should form the basis against which the public official must fulfil his/her functions. Remaining on the right track is not a matter of trial and error (Reynolds 1991:72). Codes of ethics are ideal measures that can be used to control and minimize indiscretion and corruptive behaviour and can also serve as an aid to government in its legitimacy (Clapper 1996:23). Viewed from a South African perspective, especially in the light of the new constitutional dispensation and the elimination of corruption in South Africa, "an ethical code of conduct will be of particular value since stability will not be dependent merely on a majority government ... diverse values may be fused in a common value system against groupings, can be measured ... can serve as a type of watchdog to once again call parties and groupings to order and accountability ... will make a contribution to the openness of the public service and the reconciliation of different standards"(Van der Walt 1995:167-8). In South Africa, the ANC-led government is also in favour of the application of a code of ethics for all members of Parliament as a measure to combat corruption amongst political office-bearers. This entails that all members of Parliament have to declare their private incomes,

family assets and income outside Parliament. A committee on ethics under the chairmanship of Kadar Asmal is in the process of drawing up a National Code of Conduct which will have legal implementation powers. By this action, the South African government is stating quite clearly that only by creating a moral, ethical culture based on integrity and loyalty, will the foundations be laid for the combating of corruption and maladministration (Di Georgi 1995:127).

6. CONCLUSION

Corruption has been and is still prevalent in the public sector of South Africa with the mismanagement of state money having serious implications for the community in a democratic state. Corruption takes on many manifestations and should not be regarded as a single concept/incident/form. The study of cases which occurred before and after the 1994 elections, provided one with the practical manifestations of the types of corruption that can be found. Lack of accountability, responsibility and control measures all provide the ideal breeding ground for corruptible and unethical behaviour on the part of public officials, which is compounded when political office-bearers by their non-acceptance of responsibility, help to perpetuate this condition. It is essential that measures exist by which it would be possible to combat unethical behaviour on the part of public officials; however, it is impossible to devise one measure that would be totally successful in eradicating corruption; rather, it is essential that all the so far identified measures are employed by the public sector as a cohesive unit to combat corruption.

Available measures should not be used in isolation but should, where possible, be implemented as a unit so that the full force of the law can be applied against public officials engaged in unethical and unauthorized behaviour. Measures to combat corruption will only be successful if the right ethical climate has been established in the public service. Unless public officials know and understand what is meant by ethical behaviour and what constitutes corruption or maladministration, the success of a campaign to combat corruption would be of a limited scale. Again, if measures to combat corruption are to have any success, it is essential that accountability starts at the top, viz. the political office-bearers. If they should refuse to accept accountability for their actions, the wrong message would be sent to public officials. Unless it is made abundantly clear that accountability starts at the top, any campaign against corruption would be unsuccessful.

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