

## Column Corruption – A social disease • Part 133

# Conflict of interest a challenge to uncover and prosecute

Of all the manifestations of corruption, one of the most devastating ones is conflict of interest. Conflict of interest arises when an individual's personal interests are interfering with public interest and/or their obligations as public officials and/or as businessmen and/or private people. A concern is that an individual can be influenced by their personal interests and have their professional judgement compromised (Boivard & Loeffler). Conflict of interest is very difficult to detect and to obtain evidence to prosecute because it is based on personal relationships that are not necessarily corruption until proven beyond reasonable doubt. Manifestations of conflict of interest are unlimited as new forms of corruption develop and existing forms mutate.

### UNPROVEN – UNPROSECUTED

For example, the pattern of urban land corruption in Namibia entails cooperation between board members of public enterprises and facilitators to collude on the purchase and selling price of land transactions. The market value of the land does not correspond with the purchase price. Recent examples are land bought for erecting the headquarters of the Social Security Commission and the Business and Intellectual Property Authority (BIPA) during 2017.

All transactions are legal and at this stage only the contrast between



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the market value and purchase price are indications of alleged and suspected corruption. Unless a party in these dubious transactions complain about unfair treatment,

e.g. not receiving their fair share from probable bribes and/or kickbacks, not much can be done. It seems just two more cases of conflict of interest involving tens of millions, as reported by several newspapers, will become part of statistics about unproven and unprosecuted corruption.

### EXAMPLES OF CONFLICT OF INTEREST

Manifestations of conflict of interest can include bribery based on a first party as the initiator that makes an offer to a second party – that accepts the offer – to benefit both personally or in a group in monetary and/or in kind at the expense of the wider community and/or public. For example, at the Ministry of Finance bribes may be offered to, received by and even demanded by tax officials to “grease the wheels” – to enhance normal service delivery and to shorten delays.

Grey areas of manifestations of conflict of interest include influence peddling (using official and/or personal power to benefit personally

at the expense of the community), and information peddling (using official and/or personally obtained information to benefit personally at the expense of the community). A popular manifestation of conflict of interest in the Ministry of Defence and the national security industry are secretive financial and business transactions. For example, transactions of a monopolistic nature in the interest of certain private companies by the August 26 Group consisting of joint ventures with private companies. Due to the Defence Act such transactions cannot be questioned in Parliament and therefore are not investigated.

How is it possible that a limited private company can be owned by a public enterprise that is on its part owned by a ministry? What about corporate governance principles? What about public governance principles? Which ones apply and how?

### SHADES OF GREY. . .

Other grey areas bordering on illegality include lobbying. Secretive meetings to benefit a group or a person is standard practice in politics and business. More examples are gifts and entertainment (to create favouritism, depending on the intention of the giver and the value of the gift and entertainment), outside employment (“moonlighting”, meaning using official time to run a private business), the revolving door (politicians and public officials after leaving public office for

private business and/or other official positions benefit from their previous positions and connections in terms of tendering and acquiring business contracts). For example, George W. Bush of the United States of America used his term as Secretary of State to outsource defence contracts and benefited afterwards from such outsourcing due to using his inside information (another form of corruption) and connections to obtain contracts from such outsourcing.

Popular political manifestations of conflict of interest in Namibia include patronage (preference to candidates of the ruling party during recruitment and appointment, e.g. almost all permanent secretaries are political appointments), nepotism (favouring relatives) and favouritism (favouring friends during appointments and tenders).

A business manifestation of conflict of interest involves returns on favouring specific businesses, for example kickbacks. Conflict of interest co-produces perceptions about corrupt activities until it becomes acceptable behaviour in society as described in the case of bribes in processing tax returns. To conceal conflict of interest, central control of information (refer to the Communications Act) can be used to hide information about political and public service office bearers engaging in kickbacks, misuse of state assets and moonlighting (Coetzee).

### IN SUMMARY

Conflict of interest is an umbrella term that can include numerous manifestations of corruption. Conflict of interest is based on personal relations in the network structure of a society where people are connected to each other in various ways like a spider web of publicly known and unknown relationships. In the interface between the private and the public sector, the private sector is interacting closely with the public sector in making conflict of interest possible. Conflict of interest is difficult to expose, to leverage evidence and even more challenging to prosecute and to prove that corruption has taken place beyond reasonable doubt.

### References

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