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The Fish Rots from the Head, the title of the book by Bob Garrat (2003) highlighted that the most corruption is by those in control of the levers of power.

During November 2019, a Namibian manager of Samherji, an Icelandic fishing company blew the whistle on how the company bribed the previous minister of fisheries to secure 55 000 tons of the horse mackerel quota during the period 2012-2019. To "legalise" the bribe, Namibians created a range of companies and acquired assets nationally and abroad.

To make this possible, well-known Namibian lawyers channelled some of the illegally gained money through their trust accounts and property developments (Al Jazeera, 2019). The latter documentary revealed that N\$17.5 million was channelled through the account of a Namibian bank by one of the most prominent Namibian lawyers.

In July 2015, a bilateral agreement was gazetted about the formation of a joint venture between Namibia and Angola called Namgomar SA Pesca, which is mainly in the horse mackerel business. This company was used to pay kickbacks of more than N\$103 million (Immanuel, 2019). The transactions continued for years, partly because of the secrecy about it that were not revealed to the public.

Namgomar received such a large quota that it affect-



Johan Coetzee

ed Namsov Fishing. Partially, if not mainly due to the involvement of a network of operators including some officials with fishing quotas in the ministry of labour, approximately 700 fishermen were retrenched. Several and repetitive complaints were made by representatives of these fishermen about illegal labour practices, e.g. "21-36 hour shifts without rest and sleep" (Handyaide, 2019). An official in the ministry of labour (with a fishing quota) referred the case to the High Court that has no jurisdiction over such cases. The outcome was that the fishermen were unsuccessful and the legal process halted.

Two lawyers that facilitated the transfer of funds, tax evasion and money laundering have been implicated in Fishcobar.

Tax havens were exploited. For example, about N\$6 billion tax has been evaded by those implicated in Fishcobar (One Africa Television, 29 November 2019). They have registered holding companies in tax havens such as the Marshall Islands,

Mauritius and Dubai. The tax evaded in Fishcobar is more than the corrupt deals estimated at N\$2.5 billion.

This corruption case in the fishing industry is probably one of the most, if not the most publicised cases in the history of Namibia. This case revealed the depth of corruption, its wide political and business network and the extent of abuse of power at three levels of government, the executive, legislative and judiciary.

Three levels of corrupt operators have been described and some clarity have been provided about distinguishable manifestations (masks) of corruption. This case provides an indication of the impact of corruption, the opportunity cost and the context of this case in terms of other cases.

There is also a focus on potential positive developments (take aways) if this case can be managed systemically.

This case in the fishing industry is known as the Fishrot scandal and/ or the purpose of this article called Fishcobar.

**WHAT MAKES FISHCOBAR EXTRAORDINARY?**

It is the first time in history that a Namibian corruption case is being investigated in four countries, at the Den Norske Bank of Norway (DNB), in the United States of America (USA), Iceland and Namibia and that three documentaries were re-

leased about it.

It is also the first time in history that two protest marches were organised by citizens in less than a month to the office of the Anti-Corruption Commission (ACC) to complain about corruption and demand the resignation of the director general. It is also the first time that two ministers resigned due to allegations of corruption.

The fact that an Icelandic whistleblower came forward, means that approximately 30 000 documents released by WikiLeaks cannot be destroyed. It is the first time in Namibia evidence is not controlled by well-connected political and business elite.

Iceland is the only country in the world that have prosecuted bankers of the 2008 housing/derivative scandal and jailed them. If the Fishcobar six in custody are not prosecuted in Namibia and not extradited to stand trial in Iceland, they will not be able to travel in member countries of the Organi-

sation of Economic Cooperation and Development (OECD) because Interpol will arrest them.

The potential outcome of Fishcobar can be very positive. We can expect change because of it.

The fact that a developed country participated and paid bribes to an African country is not new. Developed countries can "afford" corruption. They are not vulnerable and do have a very small number of people living in slums if any at all. For example, Norway has no slums.

**COMPROMISED AND WEAK INSTITUTIONS**

The previous Attorney General and current Acting Minister of Fisheries, Albert Kawana has been appointed by the President to investigate Fishcobar.

It would have been more appropriate to appoint an independent commission headed by a senior judge. One should not appoint a cabinet member to investigate other cabinet members. They all report to one person, the President.

When studying the Liquid

Fuels case in 1999, a number of the same persons (as in Fishcobar) were under suspicion, e.g. Sacky Shanga-la, the previous minister of justice as well as the current acting minister of fisheries.

The ACC cleared them from corruption at that time. The clearance caused a public outcry and contributed to the perception over time that the ACC is not going after the "big fish".

There are increasing perceptions that the ACC focuses mainly on the "small fish" while others are treated with kid gloves. Nelius Becker, previous chief investigator allegedly parted ways with the ACC during 2019 partly if not mainly due to frustrations the delayed prosecution of several cases.

Fishcobar is an opportunity for the ACC to improve their public image.

Given the track record of the ACC and the prosecutor general to investigate and prosecute corruption cases against the "big tigers": Will these two institutions have the manpower and the com-

petencies to study 30 000 documents thoroughly (they do not have forensic expertise) and to prosecute successfully without the same technical oversights as in the past?

(Subsequent parts of this series will be published in Market Watch from tomorrow.)

**REFERENCES**

Garrat, B. 2003. The Fish Rots from the Head. The crises in our boardrooms: developing the crucial skills of the competent director. London: Profile Books.

Al Jazeera. 2019. Anatomy of a Bribe. DStv Channel 406, 22:30, 1 December.

Immanuel, S. 2019. Namsov eyed Angola quota, Article in The Namibian, 5 December, pp. 1 & 2, Windhoek.

Handyaide, B. 2019. Secretary London & Eastern LE/524 Branch, Letter of Legal Practitioner to the President of Namibia, The Ombudsman, Judge President, Deputy Judge President, Minister of Justice and Labour Commissioner, 1 November, London.

jcoetzee@nust.na