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# THE ROLE OF CIVIL SOCIETY IN THE FIGHT AGAINST CORRUPTION IN POST-APARTHEID SOUTH AFRICA

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# THE ROLE OF CIVIL SOCIETY IN THE FIGHT AGAINST CORRUPTION IN POST-APARTHEID SOUTH AFRICA

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**A research report submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, in partial fulfilment of the requirements for the degree:**

**Masters of Management (Public Policy)**

**Supervisor:**

**Prof. Richard Levin**

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# ABSTRACT

The role of civil society in the fight against corruption is explored in this study using Hajerian discourse theory. The aim of this study was to examine the discursive practices of civil society in the fight against corruption. The examination was done at two levels. The first level identified and reviewed the key programmes and initiatives that are implemented by civil society organisations. The second level focused on the constructive effects of anti-corruption storylines and the manner in which these storylines translate into discourses and associated argumentation that shape anti-corruption policy in South Africa.

The study focused on eight civil society organisations that are involved in the fight against corruption. Several documents were studied and a number of interviews were conducted with representatives of these organisations as well as anti-corruption experts who work closely with civil society. The study reveals uneven participation of civil society organisations in the fight against corruption. Half of the organisations have solid programmes sustained through substantial funding and a good measure of corporate governance practices. The other organisations struggle to run coherent advocacy programmes. Therefore, the collective strength of civil society to significantly influence anti-corruption discourse through a well coordinated campaign is substantially weakened.

The key storylines that emanate from the work of civil society do not substantially contribute to the type of a discourse that manages to solidify into policy and institutional practices. This study highlights a general weakness in anti-corruption policy discourse in South Africa. The weakness is defined by the absence of discourse coalition. A shift to a collaborative policy dialogue which is defined by authentic dialogue, diversity and interdependence is recommended to promote the role of civil society in the fight against corruption in South Africa.

# DECLARATION

I declare that this research report is my own unaided work. It is submitted in partial fulfilment of the requirements of the degree of Masters of Management (in the field of Public Policy) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination at any university.

_____

Itumeleng Victor Mongale

Date:

# DEDICATION

I dedicate this research report to my long time mentor, critic and mother, *Mme* Kelebogile Elda Mongale, who during my formative years, instilled in me the intellectual curiosity and hunger for knowledge; my father, *Rre* Ishmael Mongale, who passed on at the nascent stage of this project, but left me with the discipline to pursue my academic endeavours with tenacity.

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It was not always easy to have access to all information that was necessary for the completion of this project. I travelled around the country looking for information. A number of appointments were made to speak to relevant persons and some of these appointments were often postponed or cancelled. It is for this reason that I would like to express my sincere gratitude to all Civil Society Organisations and individuals that unreservedly agreed to participate in this study. Many thanks to Alison Tilley (ODAC), Jacob Molapisi (Sangoco), Hennie van Vuuren (ISS), Kris Dobie (Ethics Institute of South Africa), Gary Pienaar (Idasa), Peter Just (NRLF) and Roderick Davids (OPSC), for finding some time in their tight and busy schedules just to allow me the opportunity to speak to them. I salute all of you!

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# LIST OF ABBREVIATIONS AND ACRONYMS

| | |
|---|---|
| ANC | African National Congress |
| Case | Community Agency for Social Enquiry |
| CBOs | Community Based Organisations |
| CCA | Country Corruption Assessment |
| CSNAC | Civil Society Network against Corruption |
| Core | Co-operative for Research and Education |
| COSATU | Congress of South African Trade Unions |
| CSOs | Civil Society Organisations |
| CSVR | Centre for the Study of Violence and Reconciliation |
| DA | Democratic Alliance |
| EthicSA | Ethics Institute of South Africa |
| ECAAR-SA | Economists Allied for Arms Reduction – South Africa |
| Idasa | Institute for Democracy in South Africa |
| IEC | Independent Electoral Commission |
| IPOC | Information Portal on Corruption in Africa |
| ISS | Institute for Security Studies |
| JIT | Joint Investigative Team |
| JSC | Judicial Service Commission |
| MRM | Moral Regeneration Movement |
| NACF | National Anti-Corruption Forum |
| NGOs | Non Governmental Organisations |
| NIS | National Integrity System |
| NRLF | National Religious Leaders' Forum |
| ODAC | Open Democracy Advice Centre |
| OECD | Organisation for Economic Cooperation and Development |
| PAIA | Promotion of Access to Information Act (Act No. 2 of 2000) |
| PDA | Protected Disclosures Act (Act No. 26 of 2000) |
| PIMS | Political Information and Monitoring Service |

| | |
|---|---|
| PSAM | Public Service Accountability Monitor |
| RDP | Reconstruction and Development Programme |
| SACBC | Southern African Catholic Bishops' Conference |
| SACC | South African Council of Churches |
| SAHRC | South African Human Rights Commission |
| SALRC | South African Law Reform Commission |
| Sangoco | South African NGO Coalition |
| Scopa | Standing Committee on Public Accounts |
| TI | Transparency International |
| T-SA | Transparency - South Africa |

# CHAPTER 1

# INTRODUCTION

## 1.1 Research rationale

Assessing the role of civil society has recently become a common feature in policy studies and administrative sciences. In an ever-changing world, such an assessment is essential to cogently capture pertinent issues that evolve with temporal trends of societies. Civil society organisations at international level are taking a crucial role in preventing corruption. The phenomenal role played by Transparency International (TI)[1] in influencing international anti-corruption policy is magnanimously acknowledged by multi-lateral organisations such as the United Nations and the Organisation for Economic Cooperation and Development (OECD). The robust engagement between these multi-lateral organisations and Transparency International demonstrates the principles of collaborative policymaking that continue to shape global anti-corruption discourse. However, at national level and particularly in developing countries, this good practice is conspicuously constrained. The level of corruption in most developing countries is reported to be higher essentially because civil society is viewed as weak (Langseth, Stapenhurst & Pope, 1997, p.18).

A modicum of literature exists to show that this inquiry is not a novelty. However, with the emergence of a new discourse that aims to deconstruct the role of civil society organisations in Africa, it is quite compelling to revisit this topic to interrogate this exegesis in relation to the contentious issue of corruption. Amidst antithetical debates, there is an unyielding injunction for civil society to take an active role in preventing corruption.

[1] TI is the global civil society organisation leading the fight against corruption

Understanding the role of civil society in preventing corruption has a broader significance than just influencing public policy. Civil society organisations are traditionally agents of development and economic growth. Foucault (1994) maintains that the object of governing is to introduce economy. Governing is politics, which needs to be understood as a “quintessence of economics” (Shivji, 2007, p41). The democratic system of South Africa takes into consideration the role of civil society in governing and contributing towards economic growth and development. Most importantly, corruption is viewed as inimical to development and economic growth.

South Africa seems to have reached an economic impasse. This is a phenomenon that is likely caused by some structural constraints. In the past five years, achieving the projected 6% annual growth has become an insurmountable enterprise. Pundits report that this situation beckons for some sound macro-economic management interventions. This would seem, as others argue, that the post-apartheid government continues to grapple with the challenge to reorganise the state to become more amenable to development and economic growth (Pycroft, 2006). Although economic growth seems to be sluggish, some people believe that the state has actually done incredibly well to build a democratic society that is underpinned by the provision of political and economic goods (Mattes, 2007). In all these endeavours, corruption remains a menace to the democratic ideals of this country. Policymakers have pondered over this matter and have come to the realisation that the state cannot on its own successfully remove the scourge of corruption from all sectors of the society (Ramsingh & Dobbie, 2006). This realisation has prompted various engagements with non-state actors. Balia (1999, p15) asserts that corruption is a national problem that affects all facets of life, and therefore, dealing with it becomes a co-responsibility of civil society as well.

## 1.2 Problem statement

The role of civil society in the fight against corruption in South Africa has become a contested discourse. The traditional watchdog and legitimising role of civil society has never before been faced with such a prolonged rebuttal. There is a contention that civil society cannot afford to play any oversight role while corruption is insidiously eroding the moral fibre of society. At the heart of this contention is a criticism that civil society cannot purport to speak on behalf of the poor people who are more than anyone affected by corruption (Ramsingh & Dobie, 2007). This contention in essence seems to suggest that civil society is an amorphous entity that cannot claim to represent the interests of the broader society.

The National Anti-Corruption Forum (NACF), which comprises of government, civil society and business sector, has been established as a model of multi-sectoral collaboration to fight corruption in all sectors of society. The role of civil society in promoting good governance is a subject that has been scientifically studied before. However, an intellectual void has been left to assess this subject in relation to the fight against corruption from a deliberative policy analysis[2] point of view. This study will create a fundamental epistemological foundation for understanding the role of civil society in the fight against corruption in post-apartheid South Africa.

## 1.3 Core argument

The role of civil society in the fight against corruption cannot be isolated from the broader issues faced by civil society in post-apartheid South Africa. During the apartheid era, civil society presented a united front and engaged robustly with the

[2] This study pursues Hajer's argumentative discourse analysis and the theory of collaborative policy dialogue as championed by Innes & Booher (2003) to explain the role of civil society in the fight against corruption.

State. The circumstances that coexisted with apartheid compelled many civil society organisations and NGOs to operate in a cohesive manner. Those CSOs were often seen as representing the broader interests of the masses. With the advent of democracy, the situation has somewhat changed drastically.

The fall of apartheid has ushered in more hope and comfort for majority of citizens. This situation has created some complacency for most CSOs although serious social problems continue to dominate the lives of many South Africans. The vociferous character of South African civil society has dissipated. South Africa is now experiencing a very incoherent and fragmented civil society. There is less criticism of government and, in some instances, civil society works closely with government. However, it is also critical that civil society should not be viewed as a panacea to social problems bedevilling post-apartheid South Africa (Greenstein, 2003). It is acknowledged that civil society can only play a limited role in alleviating social ills.

Although the fight against corruption has seen some sporadic participation of civil society, especially in collaborative initiatives, this participation could immensely gain from full commitment of all CSOs with the interest in combating corruption from all sectors of society. There are a few civil society organisations that are doing some incredible work to contribute towards the eradication of corruption in the country. However, these are mostly well established and managed organisations that are often criticised for not representing the interests of the broader society. Their efforts often get lost in the midst of the policymaking process and hence their prominence in the anti-corruption discourse is missed.

## 1.4 Context of the study

The government of South Africa has demonstrated commitment and political will to combat corruption in all sectors of society. Various institutional mechanisms and legislative measures have been put in place to enhance the national integrity

system in the country. The UNDP (2005) attests to the promulgation of a comprehensive anti-corruption legislative framework as the strength of the South African national integrity system. The national integrity system, in the South African context, includes anti-corruption strategies, legislation, anti-corruption bodies, Parliament, the judiciary, private sector, civil society, media and international cooperation.

Langseth, et al (1999) emphasises that civil society is an integral part of a national integrity system. The role of civil society in fighting corruption is purported to be critical because of the perception that corruption often involves government and private sector. While it is acknowledged that corruption is found in all sectors of society, recent cases of corruption in South Africa in which public officials and business people were involved, raised the perception that the two sectors are probably more prone to corruption. Despite wide and sustained media coverage of some high profile cases, civil society has not fully exploited the opportunity to shape public opinion, and consequently, influence anti-corruption policy in the country. The few civil society organisations that are involved in the fight against corruption are not seen as adequately vociferous and robust. They are often seen as fragmented and having an elitist approach to the issues of corruption.

The number of CSOs that are directly involved in the fight against corruption cannot be adequately established. A study conducted by Transparency International indicates that many CSOs are likely to be involved in aspects of anti-corruption activities in South Africa (van Vuuren, 2005). This study cites the findings of another study conducted by Idasa/Co-operative for Research and Education (Core), which states that 62% of CSOs in the country run programmes and projects in the area of transparency and governance. Van Vuuren, however, maintains that there is no empirical evidence that many CSOs are involved in anti-corruption work.

In 2003, 11 CSOs met in Cape Town and established the Civil Society Network against Corruption (CSNAC) (Van Vuuren, 2005). The CSNAC is a loose network of CSOs that mainly undertake anti-corruption work in the form of raising awareness, advocacy, monitoring and research. The Network consists of the following CSOs: the Institute for Security Studies (ISS), Black Sash, Open Democracy Advice Centre (ODAC), Institute for Democracy in South Africa (Idasa), Southern African Catholics' Bishop Conference (SACBC), South African NGO Coalition (Sangoco), Congress of South African Trade Unions (COSATU), Transparency South Africa (T-SA), National Religious Leaders Forum (NRLF), Moral Regeneration Movement (MRM), Public Service Accountability Monitor (PSAM), and the Centre for the Study of Violence and Reconciliation (CSVR),

Van Vuuren maintains that most CSOs represented in CSNAC are not active in the work of the network. While CSNAC is an identifiable structure where sharing of ideas and cooperation is seen amongst CSOs, the National Anti-corruption Forum (NACF) has become a platform where the work of civil society is formally acknowledged by other sectors of society.

A labyrinthine policy process that ensued during the transitional period to create a national integrity system laid a solid foundation for tackling corruption in this country. Out of this process, a concept of a national coordinating mechanism was conceived (National Anti-Corruption Forum, 2006; Ramsingh & Dobbie, 2006). In 2001, the NACF was established as a model of multi-sectoral collaboration in the fight against corruption. The NACF is comprised of equal representatives of government, civil society and business sector. Civil society is represented by organised labour, media, NGOs and faith-based organisations. CSNAC is represented in the NACF through a nominated member.

The NACF is responsible for coordinating the fight against corruption at national level. The role of each sector, although not clearly spelt out, can be seen in the national anti-corruption programme adopted by the NACF. Every two years, the

NACF hosts the National Anti-corruption Summit, where all sectors discuss practical measures to prevent and combat corruption in the country. The resolutions of this biennial event are often translated into a national programme. The programme represents a collective effort in translating a national policy into tangible results. Despite the adoption of this programme, the role of civil society has often come under attack for various reasons. Although some concerns are often raised by government, civil society also seems to be self-critical of its role.

## 1.5 Conceptual framework

This research report is anchored on two principal concepts, civil society and corruption. A definition of each of these concepts is briefly discussed below.

### 1.5.1 Civil society

Heinrich (2004) asserts that the banality of civil society as an analytical concept has evaded a common conceptual framework. He maintains that this problem has stalled the advancement of scientific knowledge on this subject. In order to understand the role of civil society in policymaking, it is imperative to define this concept. The definition has to take into account the empirical significance that is inherently embedded in the analysis of this concept. Seabrook (2006) believes that civil society is an axiomatic and frivolous concept without any coherent meaning. It is perhaps an intellectual mishap to view civil society as a myth. *CIVICUS*[3] has done some work to debunk this odious explication and demonstrate that this concept can be scientifically assessed. This assessment was done by developing a Civil Society Index, an instrument designed to strengthen civil society's contribution to positive social change and its role in society at large (Heinrich, 2004). This instrument defines civil society as "the

[3] CIVICUS is an international alliance dedicated to strengthening citizen action and civil society throughout the world.

arena, outside of the family, the state, and the market where people associate to advance common interests" (Heinrich, 2004, p. 13).

It is probably the definition by the London School of Economics that better elucidates civil society as an analytical concept. The London School of Economics (2004) defines civil society as "the arena of uncoerced collective action around shared interests, purpose and values". The term "arena", which denotes a public realm, is very much important for this study because of its association with public policy and governance.

Another important term in this definition is "values". Collective action around shared values sums up the role of civil society in public policy. The role is characterised by value-driven action. A study conducted by the Community Agency for Social Enquiry (2004, p.1) reveals that civil society can contribute to "policy through the implementation of programmes to supplement the role of the state". This is precisely the notion that conveys the meaning of collective action in relation to the relationship between civil society and the state.

The understanding of civil society in this study will take into account the term non-governmental organisation (NGO), which is often used interchangeably with civil society (Shivji, 2007). The London School of Business's definition of civil society is quite broad and may include political and business organisations. On the other side, CIVICUS is quite explicit in terms of all things that do not constitute civil society. In terms of its definition, civil society refers to the not-for-profit organisations. This definition excludes business but would accommodate political organisations. In the field of anti-corruption, all non-state actors, which include business and political organisations, are considered integral part of civil society. This study, although it embraces a broad definition of civil society, focuses on non-governmental organisations which do not have any known business and political interests. Therefore, business and political organisations are excluded

### 1.5.2 Corruption

Anti-corruption literature is richly endowed with varying definitions of corruption. Some of these definitions are, however, too general and vague. Levin (2002) maintains that the definition of corruption is contested essentially because corruption manifests itself in different forms. Nonetheless, one still finds the concept of corruption commonly defined as the abuse of public authority or office for personal or private gain (Shah, 2007; Dye, 2007). This definition views corruption as a phenomenon that resides within the public sector and it completely neglects corruption that takes place outside the public sector. This definition provides a very narrow view of corruption.

In recent times, there has also been a talk of a legal definition of corruption. Various international anti-corruption instruments have advanced global standards on the criminalisation of corruption. These instruments establish a range of offences related to corrupt activities or behaviour but do not necessarily provide a generic definition of corruption (OECD, 2007). Even at national level, one still finds domestic laws that do not provide a definition of corruption. In South Africa, the Prevention and Combating of Corrupt Activities Act (Act of 2004), which also introduces various offences of corrupt activities, does not define the concept of corruption. The Southern African Development Community (SADC) Protocol against Corruption is probably one of the few legal instruments that define corruption. According to this instrument, corruption entails “bribery or any other behaviour in relation to persons entrusted with responsibilities in the public and private sectors which violates their duties as public officials, private employees, independent agents or other relationships of that kind and aimed at obtaining undue advantage of any kind for themselves or others” (United Nations Office on Drugs and Crime, 2005, p.260). Singling out bribery from other behaviours confirms the fact that legal definitions tend to reduce corruption to bribery (Camerer, 2001).

It is also common to find definitions of corruption that are mainly used for policy purposes (OECD, 2007). Transparency International (2007) defines corruption as the “abuse of entrusted power for personal gain”. This definition, just like the one provided by van Vuuren (2006), which states that, corruption is the “misuse of entrusted power for private gain”, covers a broad range of corrupt activities. The OECD argues that this definition is a useful reference for policy development, elaboration of anti-corruption strategies and corruption prevention measures. The policy purpose of this definition is more appealing to this study primarily because a part of this study seeks to understand the role of civil society in anti-corruption policymaking.

Ramaite (1999) contends that this definition is circuitous in the sense that it does not indicate exactly what makes the act or conduct dishonest or unfaithful. The limitation is actually on the brevity of this definition. However, one can argue that this definition encapsulates the meaning of corruption without obfuscating the understanding. A myriad of dishonest practices and behaviour are covered in this definition because the emphasis is on the conduct. The study conducted with more than 150 experts in 2000 by the Institute for Security Studies demonstrates that corruption is significantly understood to entail abuse of power for personal benefit (Camerer, 2001).

## 1.6 Objective of the study

The aim of this study is to:

- Examine the discursive practices of civil society in the fight against corruption in post-apartheid South Africa;
- Provide new ontological and epistemological dimensions in studying the anti-corruption work of civil society; and

- Improve policy argumentation in the deliberation of various solutions to curb the prevalence of corruption in all sectors of society.

## 1.7 Research questions

This study is anchored on this primary question:

- To what extent is civil society playing a role in the fight against corruption in post-apartheid South Africa?

This key question ushers in more specific secondary questions:

- What practices and activities of civil society constitute a meaningful role in shaping anti-corruption discourse and public policy?
- How does this role become created through constructive effects of discourses and associated argumentation?
- What is the significance of collaborative policy dialogue in enhancing the role of civil society in the fight against corruption?

## 1.8 Theoretical framework

Governance is such an important concept in public policy. It is a concept that fully takes into account the role of civil society within the governance realm. Hyden (1992, p.7) defines governance as “the conscious management of regime structures with a view of enhancing the legitimacy of the public realm”. The “public realm” encapsulates a space for interaction between the state and civil society. There are various governance theories that look at the role of civil society in public policy. This study explores the role of civil society in the fight against corruption from a deliberative policy analysis point of view and uses both the theory of collaborative policy dialogue and Hajerian discourse analysis.

Hyden (1992, p.12) intimates that trust is an indicator to the extent to which individuals and groups cooperate in associations. Cooperation in associations predisposes a complex set of state-society relationships in which networks prevail in the policymaking process (Lyall & Tait, 2006). It is important to note how policy networks are understood in policymaking. Börzel (1998, p.255) distinguishes between two schools of policy networks, that is, "interest intermediation school" and "governance school". The interest intermediation school explains policy network as a form of relationship between interest groups and the state. The governance school views policy networks as a specific form of governance. Börzel (1998, p.258) concludes that interest intermediation school is widely used to explain "institutionalised exchange relations between the state and organisation of civil society". This understanding of policy network is lucidly reflected in the theory of collaborative policy dialogue, which is championed by Innes & Booher (2003).

### 1.8.1 Collaborative policy dialogue

Collaborative policy dialogue is an elaborate theory that captures networks as fundamental to policymaking. This theory is not only an intriguing explication of a governance strategy but it is also akin to assessment of civil society participation in collaborative mechanisms. Innes & Booher (2003) argue that collaborative policymaking can increase the distribution of knowledge among various policy partners. The knowledge will entail needs and capabilities, and the dynamics of the substantive problems in society. This theory rests on the premise that "tension between cooperation and competition and between advocacy and inquiry is the essence of public policy collaboration" (Innes & Booher, 2003, p.37).

The concepts of "authentic dialogue" and "diversity and interdependence" are very central to this theory. In terms of this theory, policy actors must engage in a dialogue that is authentic and devoid of rhetoric. The engagement requires that

stakeholders jettison the tendency to conceal their interests and avoid engaging in positional bargaining. Authentic dialogue requires discursive inquiry and speculative discussion or interest-based bargaining. Various proponents of this concept believe that analysis of interests and conflicts should be done at the beginning of collaborative engagement (Innes & Booher, 2003). This analysis will set a stage for joint fact finding of the nature of the problem and the conditions which affect it. King (2003, p.23) agrees that open exchanges among interest groups contribute to quality judgement on public issues.

Innes & Booher (2003) demonstrate that it is not enough just to have authentic dialogue. Collaborative policymaking requires diversity and interdependence among policy actors. This process begins with full engagement in the discourse. Leaving out some actors could be detrimental to agreements. This notion links quite well with the exclusion/inclusion debate in public policy purported by governance theorists such as Labonte (2004) and Young (2000). Diversity of stakeholders is necessary in collaborative policymaking in order to allow for the group to take advantage of the creativity of collective action. The notion of interdependence introduces the idea of collaborative efforts to bring about social change. The essence of collaborative policymaking is that stakeholders cannot work alone to meet their interests. Innes & Booher (2003) argue that collaborative mechanisms are instigated by shared perceptions of interdependence around a problem.

The benefits of collaborative policymaking include reciprocity, social capital, learning and creativity. Reciprocity has nothing to do with tradeoffs. Instead, reciprocity entails mutual complementarities in the form of collaborative scenario building. Social capital and relationships are often built between actors who previously did not relate with each other. Learning is a joint exercise in collaborative dialogues. Interaction around an issue yields some important lessons for policy actors. Learning is possible because of brainstorming and scenario-building exercises that actors undertake to deal with the problem. The

acquisition of new knowledge eventually leads to some creativity wherein various untested ideas are often generated.

Innes & Booher (2003) warn that the theory of collaborative policy dialogue is fairly new and cannot be applied to all policy issues. However, this theory seems to have some credibility since it draws from some established disciplines. It is a hybrid of communication, scenario-building, business management and conflict resolution. It is phenomenally influenced by the theory of deliberative governance. Its intellectual appeal comes from the fact that it has been tested with models of multi-sectoral collaborations.

The idea of collaborative and deliberative governance is not new at all. Various authors, agencies and multi-lateral institutions have always called for collaboration and partnerships between the state and non-governmental actors. Glaser (2007) advocates for a collaborative venture between government and community based organisations. He believes that “collaborative networks” build civic infrastructure. Although he looks at this issue from the viewpoint of performance measurement, his idea echoes the call made by the World Bank for interaction between government, civil society and private sector in the fight against corruption (Dlamini, 2007). Moreover, there is a whole new set of scholars who believe that public policymaking is a deliberative and discursive practice that needs to be understood beyond empiricist understanding of public policy. One of these scholars is Maarten Hajer who has infused the concept of discourse coalition in deliberative policy analysis.

### 1.8.2 Hajer’s Discourse Theory

The discussion of Hajer’s discourse theory cannot be undertaken without first providing some definitions of the concepts of discourse and discourse analysis. There are some few philosophical approaches to discourse analysis, which makes it difficult to provide a generally accepted definition of discourse.

However, there is one area of consensus around discourse: it entails the use of language. Hajer (2006b) believes that language can make politics create signs and symbols that can shift power balances and that can impact on institutions and policymaking. He continues to define discourse as “an ensemble of ideas, concepts and categories through which meaning is given to social and physical phenomenon, and which is produced and reproduced through identifiable set of practices” (Fisher, 2003; Hajer, 2006a; Hajer, 2006b). Therefore, discourse analysis serves to demonstrate how language creates reality. It is the examination of argumentation in textual data as well as the practices made through language (Hajer, 2006b). Discourse analysis uncovers both argumentation and practice.

The primary assumption of discourse theory is that all action, objects, and practices are socially meaningful (Fisher, 2003). Hajer’s discourse analysis is very much linked to social constructionism, which refers to multiple ways in which realities of the world are shaped and perceived. This reality is often articulated in language. According to Hajer, social constructs emerge from the combination of analysis of the discursive practice of meaning with the analysis of political practice. He terms this co-creation of socio-political reality as discourse coalition. Hajer acknowledges the coalition of actors in policymaking. Therefore, the function of public policy is to create a public space in which people deliberate on issues that affect their lives as well as on their mutual inter-relationships and their relationship to their government (Hajer, 2003). Hajer discourse theory rests on three concepts of metaphor, storyline and discourse coalition. These concepts are explained in detail in Chapter 2.

## 1.9 Delineation of the study

It needs to be emphasised, as Shivji (2007) advises, that civil society cannot be treated as a homogeneous entity. There are quite a number of civil society

organisations and NGOs that are involved in the fight against corruption. These organisations are not the same and cannot be treated as a single entity. The participation of civil society in the fight against corruption has to date come from faith-based organisations, labour movements, the media and some blue-chip NGOs renowned for policy research and advocacy work. This study focuses on a few civil society organisations that have been actively involved in the fight against corruption since 1994. These civil society organisations are all members of the National Anti-Corruption Forum.

A typical anti-corruption strategy entails four elements of prevention, detection, investigation and resolution. These four elements are often implicit when referring to the fight against corruption because of their inter-connectedness and complementarities. The work of civil society often entails a great deal of corruption prevention. In 2002, Transparency International released the Corruption Fighters Toolkit. The Toolkit introduces methods of creating awareness, monitoring public institutions and encouraging citizen participation in key decision-making processes (Transparency International, 2002). Although the methods are not exhaustive, they nonetheless remain preventative measures that civil society organisations can use to fight corruption.

Most civil society organisations and NGOs are involved in other areas of work such as human rights, social justice, democracy, poverty and security. Although these areas are related to corruption, this study does not attempt to pay particular attention to any of them. The intention is to deal with the problem of corruption in a broader sense. Anti-corruption work often covers issues of transparency and accountability such as whistle-blowing, conflict of interest, private funding of political parties, bribery, codes of ethics and many other related issues. It would not be advisable to focus on a specific issue because different organisations have different interests as well. This study was very much interested in the substantive work undertaken by civil society to prevent corruption. However, it takes into consideration the mistake that can be made to

view civil society as a panacea, as Cochrane (1999, p.51) warns. Collaboration and partnerships with other actors obviously impact on the quality of this work.

Although the theory of collaborative policy dialogue underpins the theoretical orientation of this study, no attempt is made to assess the functioning of the NACF as a model of multi-sectoral collaboration. The relevance of the NACF to this study is only limited to participation of civil society in this collaborative mechanism.

## 1.10 Report Outline

This research report consists of six chapters. Chapter 1, which is an introduction, begins with the rationale for doing this study. It highlights the observation that creates a distinction between the anti-corruption role played at international level and the one demonstrated at country level. The description is followed by a problem statement, core argument, context, conceptual framework, purpose statement, research questions, theoretical framework and the delineation of study.

Chapter 2 deals with the research design of this study. This is an important chapter that provides a vivid discussion of the research strategy that was used to conduct this study. It outlines the approach, method and techniques, instruments for data collection, target population, data analysis and ethical considerations that were made to do the study. Although it is brief, this information on research design needed a separate chapter to provide a lucid understanding of both the epistemological and ontological orientation of this study.

A literature review is covered under Chapter 3 to demonstrate the linkage between the problem statement, research questions and the objective of this study. In this chapter, the concept of civil society is further explored as a discourse that has seen its prominence in administrative sciences and policy

studies. This chapter deals quite extensively with issues of collaboration and partnerships in the fight against corruption. It ends with some observation of empirical data on the role of civil society in the fight against corruption.

Chapter 4 presents an analytical description of the anti-corruption work of key civil society organisations in South Africa. The description covers the work of eight civil society organisations, which have featured prominently in the fight against corruption in South Africa. This chapter demonstrates how the work of civil society is geared towards safeguarding the national integrity system. The emphasis is more on recent programmes and initiatives that have contributed significantly in shaping the anti-corruption discourse.

Discursive politics and deliberative practices in the fight against corruption is the central theme of Chapter 5. In this chapter, the discourse analysis of data collected from semi-structured interviews and various documentary sources is presented in a comprehensive manner. This chapter further explains how the role of civil society is understood as a socially constructed phenomenon.

This report concludes with Chapter 6, which raises some salient points about the role played by civil society organisations in South Africa. This chapter also provides some recommendations for improving the fight against corruption by civil society, government and business sector. At the end of the chapter, a complete reference lists and appendices are given.

# CHAPTER 2

# RESEARCH DESIGN

## 2.1 Introduction

This is a qualitative study. Bryman (2004) raises a critical point about the use of the concept “qualitative research” to imply that no quantitative data would be generated. Bryman notes that the distinctiveness of qualitative research is not only explained by the absence of numbers. He outlines three features of qualitative research, namely:

- An inductive approach to the relationship between theory and research in which theory is built from research;
- Understanding of the social world through an examination of the interpretation of that world by its participants; and
- Social properties as outcomes of the interactions between individuals rather than pre-existing phenomena.

In simple terms, qualitative research is concerned with understanding feelings, experiences, social situations or phenomena from participants’ perspective (Kelly, 2006, p.287). The extent to which civil society is playing a role in the fight against corruption can be better understood by examining feelings, experiences and various social situations of participants. Qualitative approach is more suited to this kind of study as it can give more insights about this role.

Anti-corruption research is overwhelmingly obsessed with empirical evidence. This is not necessarily problematic. However, this research often views empirical data from a naturalistic approach that is known for its predilection for numerical data. In this study, discourses are seen as data and are therefore qualitatively

analysed. Where numerical data is seen, its function is to provide a general description and overview of phenomena as they are seen by quantitative researchers.

Participation of civil society in the fight against corruption should be seen as both a political and social reality. The qualitative approach taken in this study is very much consistent with the post-empiricist movement that is insidiously influencing debates on policy research. Post-empiricists in the field of public policy such as Frank Fisher, Maarten Hajer, Hendrik Wagenaar, Martin Rein, David E. Booher and others have successfully demonstrated that policy research should be understood within the perspectives of public policy discourse, discursive policy analysis and deliberative policymaking practices (Fisher, 2003a; Hajer & Wagenaar, 2003).

## 2.2 Method and techniques

When it comes to traditional methods and techniques of qualitative research, one always finds strategies of inquiry such as narrative study, phenomenological research, ethnography, grounded theory, case study and ethnomethodology. Most qualitative research text books do not identify discourse analysis as a research method and technique. Discourse analysis is often seen as a tool or method for analysing textual data. There is a good measure of truth about this, given the fact that authors such as Creswell (2003) and Mouton (2001) list discourse analysis as one of the research methods but do not explain why it is a research method.

The foundation for understanding discourse analysis as a research method is fundamentally embedded on the post-modern and post-empiricist[4] perspectives.

[4] Post-empiricism is a move away from a neo-positivist approach that puts a lot of emphasis on an empirical orientation known for rigorous quantitative analysis (Fischer, 2003b).

According to Fischer (2003b), post-empiricist perspectives have a particular emphasis on social meaning and values through an in-depth understanding of language and discourses. This is a point well acknowledged by Kress (1995) (cited from Phillips & Hardy, 2002). Kress asserts that “texts are the sites of the emergence of complexes of social meaning” (Phillips & Hardy, 2002, p5).

The choice of method and technique is not always a clear cut process. The basic cue to find guidance to the appropriate method resides in the formulation of research questions and the object of study. Philosophy underpins every research exercise. Research questions develop from the set of rudimentary assumptions about the topic of study held by the researcher (Phillips & Hardy, 2002). Moreover, the operationalisation of discourse analysis depends on the formulation of research questions (Hajer, 2002). The choice of discourse analysis demonstrates a particular philosophy. This research method is very much rooted in a social constructivist epistemology (Fischer, 2003a; Phillips & Hardy, 2002). The primary interest of this study is on the discursive practices of the different civil society organisations that are involved in the fight against corruption and how language reflects the co-creation of this social reality.

Hajer (2006a) maintains that the underlying meaning of discourse may not be obvious to those who are part of the public debate. It needs to be acknowledged that the role of civil society in the fight against corruption is a political matter. Hajer shows that a discourse analysis has the potential to unmask the role of language in politics and more importantly, the “embeddedness of language” in practice. The role of civil society in the fight against corruption, as seen in various practices, is largely shaped by language. In applying Hajer’s thinking, it is not the problem of corruption that is important, but the way in which civil society makes sense of corruption though discursive practice.

From the above discussion, it is evident that discourse analysis is not only a tool for data analysis, but is also a research technique “that involves a set of

assumptions about the constructive effects of language" (Phillips & Hardy, 2002, p.5). For Hajer (2006b), stories that people tell about policy issues cannot be seen as raw data that can be coded. These stories profoundly shape the view of the world and reality. Discourse analysis explores how ideas and objects that are socially produced are constructed. Unlike traditional qualitative methods and techniques, discourse analysis does not endeavour to interpret social reality as it exists. Phillips & Hardy believe that this is a technique that uncovers how reality is produced. These authors succeed in drawing a distinction between discourse analysis and other techniques such as ethnomethodology, conversation analysis, ethnography and narrative analysis, which are also akin to social constructivism and can also become discourse methods.

There are different approaches to discourse analysis such as interpretive structuralism, social linguistic analysis, critical discourse analysis and critical linguistic analysis (Phillips & Hardy, 2002). This study associates very closely with interpretive structuralism. Interpretive structuralism appreciates the understanding of some aspects of the broader social context and the discourse that supports it. It is a philosophical theory that links well with Hajer's argumentative discourse analysis, which is highly interpretive. The topic of this study presents the post-apartheid South Africa as the broader social context.

Hajer's argumentative discourse analysis is developed from the Foucauldian approach of discourse analysis which has a strong emphasis on construction of objects, identities and categories as forms of knowledge. Hajer has translated the Foucauldian approach into an analytical framework for understanding concrete policy problems (Fischer, 2003a). Corruption is certainly a concrete policy problem that requires some kind of discursive policy analysis. It is about time that discursive practices and argumentation in the fight against corruption are fully examined especially in a post-apartheid South Africa.

The reason for doing this discourse analytic study is not merely to present better data on the role of civil society in the fight against corruption. In Chapter 3, I demonstrate the general limitation of scientific knowledge on this role. In doing this study, there is also a very strong essence of improving policy argumentation in the fight against corruption in South Africa. Fischer (2003a) points out that the post-empiricist discourse approach is grounded on the knowledge that the influences of power, ideology, rhetoric and authoritarian forces are fundamental ingredients of political life. Whatever decisions and actions inform the practices of civil society in the fight against corruption occurs in the context of ongoing stories about social and political phenomena. This is exactly the point made by Weimer (2002, p62) that "policy analysts often inform public discourse by making arguments about what social values are relevant to particular policy contexts".

The idea of advancing policy argumentation in public deliberation of anti-corruption issues in South Africa is to bridge the gap between empirical data and normative assumptions. Fischer (2003a) calls this ontological orientation in policy analysis "argumentative turn". The argumentative turn means that empirical evidence has to be situated within the interpretive framework that gives it meaning. Argumentative policy analysis, therefore, accentuates the significance of problem formulation and practical judgement in understanding policy problems in the fight against corruption with the sole objective of finding possible policy solutions (Hajer & Wagenaar, 2003).

## 2.3 Instruments for data collection

The main data collection components used in this study are semi-structured interviews and documentary sources. Semi-structured interviews allow for a list of questions or some specific topics to be covered. This data collection instrument required a compilation of an interview guide/protocol with salient themes clearly outlined. Semi-structured interviews are known to be flexible in

the sense that the interview may cover any relevant questions that are not predetermined by the protocol. The strength of this instrument is its high validity for a study that seeks to explore the meanings behind actions.

There are voluminous records and documents that contain various anti-corruption activities undertaken by different civil society organisations. These records and documents include annual reports, newspaper articles, minutes of various meetings, media statements and parliamentary briefings and submissions. This study began with a survey of newspaper articles written about responses and positions made by key individuals within civil society regarding various issues of corruption in the country. A total of 45 articles from 17 national print and online newspapers and two international newspapers were accessed and used for data analysis. At least 10 of these articles were written mainly by members of CSNAC. All these articles were written in the period 2001 to 2008. A further five articles of non-academic periodicals such as magazines, bulletins and newsletters written in the period 2003 to 2009 were collected. A total of 8 parliamentary submissions, briefings and reports were also collected and reviewed.

After all these documentary sources were reviewed, an interview protocol (Appendix A) was designed for participants. A total of seven interviews were conducted with key players, from 19 June 2008 to 30 September 2008. Two of the participants do not belong to civil society. An attempt was made to conduct face-to-face interviews with all participants.

## 2.4 Target population

A study conducted by the Centre for Civil Society, University of Kwa-Zulu Natal, reveals that by 1999, South Africa had about 98 000 NGOs and community based organisations (CBOs) (Van Vuuren, 2005). Van Vuuren believes that

many of these organisations are involved in some aspects of anti-corruption work but they tend to view combating corruption as the responsibility of government. Although his belief is based on anecdotal evidence, Van Vuuren makes a valid point that most civil society organisations do not view corruption as their primary concern. This explains the reason why there are a few civil society organisations that are actively involved in the fight against corruption.

In the absence of any conclusive evidence on the total number of civil society organisations that are directly involved in the fight against corruption, one has to accept that the 10 representatives of civil society in the National Anti-corruption Forum present the definite players in the anti-corruption arena. These representatives include the South African NGO Coalition (Sangoco) and the Civil Society Network against Corruption, which have their own respective memberships. The other representatives come from organised labour, media and faith-based organisations.

This study focused on civil society organisations from faith-based organisations and some key NGOs involved in the fight against corruption. The following CSOs were studied with various interviews conducted with some of their representatives:

- Open Democracy Advice Centre (ODAC);
- Institute for Democracy in South Africa (Idasa);
- Institute for Security Studies (ISS);
- South African NGO Coalition (Sangoco);
- Public Service Accountability Monitor (PSAM;
- Transparency South Africa (T-SA);
- Moral Regeneration Movement (MRM); and
- National Religious Leaders Forum (NRLF)

Representatives of these organisations have consistently been involved in the work of the NACF and the broader anti-corruption work on their own. This study

does not cover the anti-corruption work of the Ethics Institute of South Africa (EthicSA) mainly because this NGO has recently done its work under the auspices of Business Unity South Africa. Labour and business organisations have also been excluded in order to focus specifically on non-governmental organisations that do not derive any profit and do not pursue any known political ideology.

## 2.5 Data analysis

This study treats the role of civil society in the fight against corruption as a discursive matter. This matter is often explained in a rather intuitive manner with emphasis on quantitative analysis presented as rhetoric. The truth about this role should be propounded by representatives of civil society, keen observers and authors of various documents. This version of reality is loaded with an ensemble of ideas, concepts and categories that can be difficult to fathom (Hajer, 2006a; Hajer, 2006b; Hajer, 2005a; Hajer, 2005b; Hajer, 2002; Hajer & Versteeg, 2005a; Hajer & Versteeg, 2005b). These ideas, concepts and categories need to be analysed to illuminate the meaning of this role as a social phenomenon. It was therefore appropriate to use discourse analysis as a tool for data analysis to bring out a particular regularity.

This study used data mainly collected through interviews and from some selected documents and records. Discourse analysis requires a reflection on textual activities that entail searching for binary oppositions and identification of recurrent themes, phrases and metaphors (Terre Blanche, Kelly & Durrheim, 2006). The emphasis was on examining the effects of texts rather than their truthfulness. Terre'Blanche, et al (2006) emphasise that identification of the effects of text is an essential element of discourse analysis. The idea was to approach collected data as a body of text that needed to be interpreted within a context. Explicating the broader context assisted in understanding the patterns of variation and consistency in discourse. In this study, the text was contextualised

in a macro context of institutions and ideologies. Articulations by participants and authors of documents can discern various ideological and institutional orientations. Understanding texts in a context broadly elucidated the role of civil society in the fight against corruption.

Hajer (2002) explains that he uses discourse analysis in the study of policymaking to determine how discourse, cognition, strategic behaviour, institutional and political change occur. In this study, the emphasis is on metaphors, storylines and discourse coalitions. Common metaphors were identified from text and their meanings were carefully studied. At another level, various statements and themes were examined. Only statements and themes that are in the form of a narrative were used. From these statements and themes, various storylines were revealed. Hajer (2006a, p69) employs the concept of storyline to refer to "a condensed statement summarising complex narrative". A group of actors usually share the usage of a particular storyline. It is important to also identify who uses a particular storyline. Hajer uses the concept of discourse coalition to refer to a group of actors who employ the same storyline in the context of an identifiable set of practices (Hajer, 2006a).

## 2.6 Ethical considerations

Various sources of information such as minutes and reports of the NACF were available to me due to the supportive role I have in the NACF. This information is not in the public domain and therefore access to it was highly privileged. The use of this information was not done without formal authorisation obtained from the NACF and the relevant organisations. A letter requesting permission to use this information was sent to the Chairperson of the NACF and permission was granted.

Although I interacted with representatives of civil society organisations within the NACF and participated in the work of the NACF, I never attempted to play the

role of researcher on those occasions. Participant observation did not form part of data collection instrument for this study. Therefore, information obtained during my participation in the NACF was not used in anyway to do this research, as the NACF and its participants never saw my role as that of a researcher.

It was not going to be easy for me to undertake a study that seeks to explore the work of civil society without my motives and intentions being doubted by agents of civil society. It was expected that members of civil society would want to know the reasons for me doing this research. It is critically important to note that this study was not commissioned by government and therefore cannot represent the interests of government. The findings of this research will not be used to influence the position of government in dealing with civil society.

As a government official, I was not going to escape the challenge of conflict of interest with ease. I tried my utmost best to be fair and objective in my assessment of government relationship with civil society. My experience in the work of the NACF, where frontiers are clearly observable, made it more challenging for me to instantly criticise government. However, I was able to overcome this problem by basing my criticisms on the facts obtained from collected data. Moreover, I also chose not to use any of my colleagues from the Department of Public Service and Administration as participants in this study. In that way, I avoided any possible undue influence in my assessment of civil society.

## 2.7 Conclusion

Discourse analytic studies are not common in the field of anti-corruption. Anti-corruption studies often follow a quantitative approach. In this study, a qualitative approach was used and discourse analysis was mainly used as a research method. It is quite evident that discourse analysis is a complex technique. It is not only a method but a methodology. As a method, discourse analysis is used in

this study as a technique for conducting research (data collection, analysis and presentation of findings). As a methodology, it is used primarily to convey a set of assumptions concerning the constructive effects of language. At the end of this research report, one will learn how the reality about the role of civil society is embedded in the practice as informed by language employed by different actors.

# CHAPTER 3

# LITERATURE REVIEW

## 3.1 Introduction

This chapter deals essentially with some key thematic issues that need to be understood when studying civil society. Any study that intends to examine civil society needs to start by addressing the very meaning of the concept of civil society. Most studies have done that by tracing the historical evolution of this concept. For this study, the conceptual development of civil society is more important. Civil society is treated as a discourse that is located within various historical and social contexts. Although there are some standard definitions of the concept of civil society, it is not uncommon to find polemical debates about what constitutes civil society.

The fight against corruption has recently adopted a mode of governance that calls for participation and collaboration. The concept of governance itself exists with an abundance of different theories. The theories that are relevant to the concept of civil society are further explored in this chapter. More importantly, some policy models that address the concept of governance are revisited to assess their significance to this study. Various governance theories believe that collaborative governance requires that both the state and non-state actors work together in governing. There is a substantial amount of literature that looks at the partnership between civil society and government. This literature is examined in this study in some more detail.

There is also an emerging body of literature, albeit small, that seeks to examine the role of civil society in the fight against corruption. Some of it seeks to provide assistance and guidance to CSOs that are involved in the fight against

corruption. Alongside this literature, there are few studies conducted particularly in South Africa that examined the anti-corruption work of civil society. These studies are very much thin in terms of empirical analyses. Finally, the international experience, especially with regard to role played by Transparency International is provided to demonstrate the role of civil society at a global level.

## 3.2 The civil society discourse and other related concepts

There is a plethora of literature on the role of civil society in public policy. Most studies conducted in South Africa barely provide a critical assessment of the concept of civil society. It is not sufficient to merely provide a conceptual framework. The review of civil society as an analytical concept is required to elucidate the role that civil society can play in the fight against corruption. In Chapter 1, civil society is explained as the arena of organised action around shared interests, purpose and values. The key defining elements of this conceptual framework are the arena, collectiveness and action. For civil society to exist there should be a space for expression of interests, values and purpose in a much organised manner.

Howell & Pearce (2002) assert that civil society is a paradigmatic concept in the field of public policy. These authors demonstrate that this concept does not deserve any perfunctory treatment. It is necessary to acknowledge the different paradigms that inform the understanding of civil society. Most studies on civil society locate this concept within its historical context (Obadare, 2004).

The Marxist thought of civil society as “the soil from which state power arises” is an interesting one (Shivji, 2007, p. 28). Shivji, basing his argument on the Marxist theory of civil society, vehemently contends that civil society is not harmonious entity. He succinctly outlines three categories of civil society organisations to support his argument. These categories can be summarised as follows:

- The radical elite which was borne out of political struggle. This category of civil society has in its objective the vision to bring about change and transformation.
- The altruistic driven elite comprise of those civil society organisations that are genuinely concerned with the conditions of their fellow human beings and compatriots.
- The mainstream elite is mostly careerist in its nature and is motivated by material gain.

These categories of civil society organisations are important for understanding the various forms of civil society in Africa. It is easy to determine and assess the work of civil society if it is known what agenda informs various civil society organisations. Shivji (2007, p.13) argues that "NGO discourse, or more correctly, non-discourse is predicated on the philosophical and political premises of the neoliberal or globalization paradigm". Shivji maintains that most NGOs in Africa proliferated with the neoliberal offensive that prevailed in Africa. This proliferation was heavily infused with an underlying ideology or paradigm driven by donor community, which was essentially anti-state. These NGOs derived their legitimacy from the donor community.

Shivji's conceptualisation of civil society is very much relevant to most countries in Africa. However, in South Africa, the development of NGOs is slightly nuanced. Most NGOs were borne out of a struggle to end Apartheid. They formed part of the anti-apartheid movement. Although these NGOs were anti-state, the donor community did not drive their existence and ideologies. They derived their legitimacy from different communities and ordinary citizens who shared their values and visions. Most of these NGOs remained after the demise of Apartheid in 1994, with some of them loosing their relevance.

Shivji's categorisation of NGO can also be applied to the South African context. COSATU and most labour organisations were borne out of political struggle and

can closely be linked to the radical elite. The agenda of COSATU continues to be driven primarily by political ideology. Leaders and members are nominated for positions within the ruling party and government. Its fundamental goal is to achieve the political and economic transformation. South Africa also has those altruistic NGOs that are genuinely concerned with the conditions of fellow citizens. Most of these organisations are members of the South African NGO Coalition. They serve rural communities and disadvantaged groups such as women, children and the disabled persons. However, most NGOs fall under the category of mainstream elite. These NGOS include the Institute for Security Studies, the Institute for Democracy in South Africa and the Centre for the Study of Violence and Reconciliation. These NGOs receive substantial donor funding and can attract top professionals who are more motivated by personal gain than altruistic reasons.

Paradigms are important as they can frame the approach towards providing solutions to social problems. The civil society discourse propounded by Shivji does not seek to dispel the notion of civil society as an African phenomenon. Shivji does not doubt the applicability and the usefulness of civil society in Africa as Obadare (2004) charges about African literature on civil society. The point that Shivji is making is not about the origin of civil society. He is only questioning the role of civil society in Africa and warning that this role is influenced by theoretical premises.

According to Calland (2006), civil society in South Africa includes the Church, the trade unions, the human rights pressure groups, the policy think tanks, the charitable trusts, the voluntary associations and community based organisations. Not everyone uses the concept of civil society to explain the not-for-profit organisations. Sadie (2006) prefers the concepts of interest groups and social movements. If one looks closely at the meanings of these two concepts, some non-governmental organisations would be left out. It is best to view both interest

groups and social movements as subsets of civil society. Civil society is a sector operating alongside public and private sectors.

Sadie (2006, p.218) defines interest groups as “any group of people with shared attitudes and goals that try spontaneously or consciously to protect and promote their interests by influencing governmental decision making process in order to realise those goals”. Calland (2006) argues that the definition of the concept of social movement is even more elusive than the concept of civil society. This subset of civil society is characterised by a common set of beliefs and values, political activism such as protestations and informal interaction networks.

The reason for focusing on civil society as an umbrella concept for an arena of non-state actors is based on the understanding of the concept of policy universe, which is now advanced in policy studies (Howlett & Ramesh, 2003). The term of policy universe denotes the existence of state, non state actors (particularly civil society) and institutions that directly and indirectly affecting a policy issue. The definition of the concept of civil society refers to an “arena”, which is a space where actors interact to deal with policy issues. Howlett & Ramesh (2003) includes labour, think tanks and research organisations, media and interest groups as some societal actors that are often involved in the policy process.

## 3.3 Governance: Participation, collaboration and partnerships

### 3.3.1 Participatory governance

There has been, in recent times, a shift in vocabulary in the analysis of politics and policymaking (Hajer & Wagenaar, 2003). The shift from government to governance has become more prominent. This shift is attributable to new political practices that are seen between state institutions and societal organisations.

Participation of citizens in the political process is a cornerstone of democracy (Fischer, 2003a). Democratic governments derive their legitimacy from citizen participation in the policy process. The word “participation” is very critical in understanding how political decisions are made in a democracy. In democratic state where deliberative governance is the norm and practice, it would be difficult to agree with Hendrickse (2006) that policymakers make policies for and on behalf of societies. Colebatch (2002) goes further to say that policymaking requires expertise relevant to the policy problem. Expertise is seen here as the basis for participation. This understanding of policymaking takes a very technocratic overtone, which is consistent with a neo-positivist epistemology. Torgeson (2003) corrects the anomaly of this explication by explaining that policy is made from complex social interaction. In this view, the policy process emanates from society or at least a large social network, where a public discourse creates a policy discourse. Of course, there are further ramifications which explain the existence of policy networks and policy communities.

Deliberative governance is incompatible with the Machiavellian notion that sovereignty is exercised on a territory and on subjects who inhibit it (Foucault, 1994). It would also be problematic to conceptualise governance as “the state administration of institutions and social actors in which the correct mixture of policies and procedures produces an inclusive society and thus eliminates the exclusion of targeted groups of social actors” (Popkewitz & Lindblad, 2000, p5). First and foremost, governance entails a concerted effort to manage “regime structures” in order to promote the legitimacy of the public realm (Hyden, 1992, p7).

Hyden reminds us that a regime is not the set of political actors, but rather a set of basic rules about the management of the public realm. Leftwich (1993) further elucidates this issue and entrenches the notion that governance is about political structures and rules by which society is governed. In the South African context, the Constitution lays down the set of rules for managing the public realm. In this

regard, the democratic regime is deeply rooted in the advancement of deliberative governance. The Constitution defines the regime and gives a practical meaning to the concept of governance, which is aptly consistent with the conception of governance as articulated by both Hyden (1992) and Leftwich (1993).

### 3.3.2 Collaboration and partnerships

According to Greenstein (2003, p.20), research on the role of civil society in post-apartheid South Africa has focused on partnerships. Most of these studies assess the relationship between the state structures and civil society. It is quite a daunting task to assess the role of civil society in post-apartheid South Africa without examining the relationship between the state and civil society. Peters (2004) justifies the need for this assessment. He views institutions of power as the locus of legitimate authority. His argument for this assessment is based on the understanding of the concept of "politics" which presupposes the power of institutions in enabling policy decisions. For him, governance takes place within the relationship between the state and its citizens.

The partnership between government, civil society and business sector in the fight against corruption is often seen as a model of best practice for South Africa. Transparency International (2007) believes that the South Africa's positive progress of anti-corruption efforts is explained by partnership arrangement between the state and non-state actors. Partnering with civil society to combat corruption is still seen as an essential strategy for developing countries to strengthen the accountability of governments. Transparency International in particular views coalition building as an essential approach for tackling the scourge (Aziz, undated).

Although the formation of the NACF is lauded, Ramsingh & Dobie (2007) maintain that the NACF is experiencing serious challenges in terms of its

functioning. The NACF consists of 30 representatives of civil society, government and private sector. Each sector is represented by 10 members. Although civil society is represented by 10 members, one of these members is a convenor of CSNAC, who represents at least six NGOs. As compared to other civil society members of the NACF, CSNAC is probably the most influential member. Its representative derives strength and confidence from well-resourced NGOs.

The CSNAC can be viewed as some kind of a policy community. The same can be said about Business Unity South Africa (BUSA), a body that represents various business organisations. Booysen (2006) maintains that political actors often organise themselves into a policy community in accordance to the issue at hand. Here, the issue is corruption and various civil society actors have come together with the objective of tackling the issue of corruption. R.A.W. Rhodes has become the authority on the studies of policy communities and policy networks. He defines policy community as a stable, tightly knit group of relationships, with more restrictive membership and insulation from other networks (Rhodes & Marsh, 1992). Policy network, on the other hand, refers to a system of relationships which links the policy communities together (Howlett & Ramesh, 2003). Therefore, the NACF may represent a policy network except that membership to the NACF is restrictive.

The issue of partnerships in the fight against corruption is quite popular. The OECD declares that the role of civil society in curbing corruption has become a “leitmotiv of anti-corruption discourses” (OECD, 2003, p. 7). The OECD lists at least four global civil society bodies that are active partners in the anti-corruption work of the OECD. These bodies are the Business and Industry Advisory Committee to the OECD (BIAC), the International Chamber of Commerce (ICC), the Trade Union Advisory Committee to the OECD (TUAC) and the Transparency International (TI). These kinds of partnerships are usually seen at a global level. At national level, governments have minimal partnerships with civil society.

## 3.4 Influencing public policy and promoting good governance

### 3.4.1 Generic role in the policy process

It is true that a lot of anti-corruption policymaking takes place at prevention level. Rosenbaum (2006) believes that civil society is often at the cutting edge of public policy. He maintains that civil society is sometimes the source of new initiatives which are incorporated into government policy. Table 3-1 below outlines the various ways in which civil society can influence policymaking. CSOs frequently attempt to influence policymaking through conducting research and publishing research findings. In some cases, they lobby elites and mobilise public opinions.

There are various theories and models that explain the process of policymaking. The theory that best explains the role of civil society in public policy is the group model. In terms of this theory, various interests groups may interact with policymakers to influence public policy (Fox, 2006; de Coning & Cloete, 2006). The group theory is essentially concerned with the political activity in which the group struggle may be seen (Dye, 1995). According to this theory, policymakers have to respond to group pressures among competing influential groups. In this case, the political activity is about reconciling these competing interests (Howlett & Ramesh, 2003). Groups can be anything from a political party to societal formations such as an influential NGO or a coalition of CSOs. The group theory does not exist without any criticism. Smith (1990) as cited from Howlett & Ramesh (2003) argues that this theory does not clearly spell out the role of government in public policymaking. Government assumes a role of a reconciler of competing interests.

Above all, the group theory assumes that policy process is always characterised by conflicts. In the fight against corruption in South Africa, there has been less conflicts and contestation of interests. In fact the collaboration between civil society, government and private sector renders the group model ineffective in explaining the anti-corruption policymaking. It is accepted that there is a political

activity in the making of anti-corruption policy, but this activity is not defined in terms of conflicts. This study believes that in the advocacy work of various CSOs, there is a lot of argumentation. The argumentation is not necessarily about conflicts.

**Table 3-1: Means by which CSOs can influence policy process**

| Agenda setting | Policy formulation | Policy implementation |
|---|---|---|
| Civic education campaign | Influencing policy proposals by cabinet ministers through:<br>▪ Drafting and publicising proposed legislation<br>▪ Mobilising expert opinion | Influencing administering or implementing agency(s) by:<br>▪ Testimony at rulemaking or legislative oversight hearings<br>▪ Lobbying (individually or collectively)<br>▪ Letter writing campaigns, etc. |
| Conducting and publishing research findings | Mobilising media sentiment and public opinion through:<br>▪ Letter writing campaigns.<br>▪ Lobbying at all levels of the state.<br>▪ Financing and/or organising media campaigns, etc. | Seeking and receiving contracts to design, implement, provide technical assistance, review or evaluate programme or policy |
| Lobbying elites | Creating advocacy coalitions | Media or public education campaign |
| Mobilising public opinions through:<br>▪ Media campaigns<br>▪ Word of mouth<br>▪ Financing public relations activities<br>▪ Enlisting support of other organisations or prominent individuals | Carrying out research, analysis and demonstration projects, etc. | Seeking judicial interventions or review by:<br>▪ Initiating law suits<br>▪ Financing legal action<br>▪ Filing friend of court action |

**Source**: Adapted from Rosenbaum (2006, p.48)

Sabatier and Jenkins-Smith have advanced the coalition advocacy framework to explain public policymaking (Fischer, 2003; Howlett & Ramesh, 2003). The coalition advocacy framework emphasises the importance of relationships within policy sectors. Unlike the group theory which is defined by competing interests, advocacy coalition is characterised by alliances of political groups in a policy

subsystem with the same interests. Advocacy coalitions exist to argue against other policy coalitions concerned with the same issue (Fischer, 2003). The fact that three sectors of society have chosen to work together to fight corruption in South Africa should be seen as a positive development in the fight against corruption. However, the NACF and its work cannot be explained sufficiently by the advocacy coalition framework. This study embraces Innes and Booher's theory of collaborative policy dialogue which views policy dialogue as a critical aspect for minimising tension between cooperation and competition. Both the group theory and coalition advocacy elevate political tensions as key to policymaking. Collaborative policy dialogue, on the other side, accentuates interdependence, authentic dialogue and reciprocity and social capital as critical in public policymaking.

The coalition advocacy framework is seen as another neopositivist explication of public policymaking (Fischer, 2003). Hajer is known to be the critic of this theory. The paramount sin of advocacy coalition, according to Hajer, is its inability to explain why and how policy change happens. Coalition advocacy neglects social and historical contexts. Hajer argues that this theory is contextless (Fisher, 2003). It cannot be argued that all CSOs that are involved in the fight against corruption are motivated by the same interests. Although these CSOs may have the same goal, which is to combat corruption, they are often various contextual issues that explain their reasons for their participation. These reasons can be discerned from the various argumentations advanced by these CSOs. Members of the CSNAC, for example, may speak the same language on a particular issue but generally they do not use the same language. These argumentations reside in various discourses. It is against this backdrop that this study wishes to analyse various metaphors, storylines and discourse coalitions to demonstrate that civil society is not a homogeneous entity in the fight against corruption.

### 3.4.2 Promoting good governance

It is imperative to know if partnerships are the only means to which CSOs can engage with the state to curb corruption. Allan (2003) argues that the post-apartheid civil society has adopted a new approach to advocacy and engagement with government. This approach is essentially characterised by non-criticism of government and personalised networking. It seems that partnerships or collaborative mechanisms are best possible avenues in which civil society can participate in the policymaking processes. Nyalunga (2006) unequivocally supports the notion of public participation as a key driving force for democratic consolidation.

Corruption poses a serious threat for any society if allowed to go on unperturbed. Most nations have adopted strategies to counter corruption. Argyriades (2006) argues that the change in language, from government to governance, has become the panacea in which civil society, government and the private sectors are expected to work together in power sharing. The concept of governance was first used by the World Bank in 1989.

According to the World Bank, good governance is “epitomized by predictable and enlightened policymaking (that is, transparent process); a bureaucracy imbued with professional ethos; an executive arm of government accountable for its actions; and strong civil society participating in public affairs and all behaving under the rule of law. (World Bank, 1994, vii cited from Argyriades, 2006).

Mafunisa (2004) asserts that the constitutional framework in South Africa creates the foundation for civil society engagement in promoting good governance. The sections of the Bill of Rights that deal with the freedom of expression and association relate directly to the promotion of good governance through civil society. He argues that a strong and robust civil society is an indicator of a healthy democracy. In his argument, he clearly agrees with Transparency International that civil society is one of the pillars of a national integrity system.

Although there is no explicit reference to civil society in the Constitution, Mafunisa seems to be correct to suggest that the promotion of good governance through civil society is crafted in the Constitution.

Former Chief Executive Officer of Transparency South Africa, Dr Stiaan van der Merwe, believes that the role of civil society in the fight against corruption can be identified and best known if consensus on a broader understanding of the phenomenon of corruption is established (Van der Merwe, 1999). His belief implies that the country and the whole world are devoid of such consensus. In 2007, South Africa hosted the Fifth Global Forum on fighting corruption and safeguarding integrity. The key theme of this conference sought to achieve a common understanding of corruption. Based on this theme, a whole workshop was dedicated to the discussion of the role of non-state actors in the fight against corruption. It is evident from various discussions that civil society on its own cannot conquer the problem of corruption in a country (Mafunisa, 2006; Doig, McIvor & Theobald, 2006). Van der Merwe (1999) asserts that corruption is a societal problem. In his elaboration of this statement, he argues that civil society is also part of the problem. It needs to be acknowledged that civil society does not exist without its share of internal corruption. Good governance also means that civil society organisations exercise transparency and accountability.

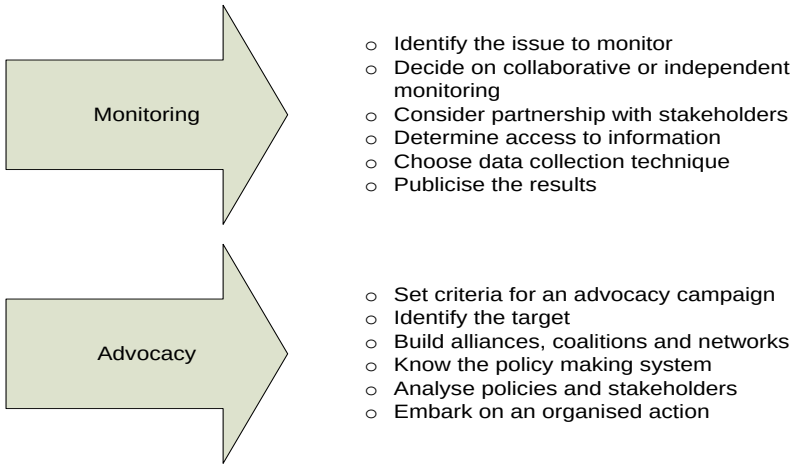
### 3.4.3 Civil society guidelines for fighting corruption

There are several guidelines, resource books and toolkits developed to assist CSOs to fight corruption. The most notable of these resources include the Corruption Fighters' Toolkit developed by Transparency International (TI) in 2002 and 2003 respectively; and Richard Holloway's NGO Corruption Fighters' Resource Book published in 2008. The TI Toolkit is organised around key themes such as awareness raising, procurement, election campaigns, access to information, public institutions, business ethics and diagnostics (Transparency International, 2003). A toolkit presents innovative anti-corruption tools developed

and implemented by various CSOs from around the world. The toolkit basically describes experiences of CSOs around the world with the intent to share best practices. About three to four case studies per thematic area are presented to demonstrate how CSOs can fight corruption successfully.

Holloway's resource book is a simple guide that can be used by NGOs and CSOs to fight corruption. This resource book focuses on two generic tools, monitoring and advocacy as illustrated in figure 3-1 below. These tools are purported to have produced significant impact on the work of NGOs over the past decades (Holloway, 2008). They are coupled with project management tools and couched into a set of guidelines for the fight against corruption.

**Figure 3-1: Means by which CSOs can do monitoring and advocacy**




The role of civil society in the fight against corruption is often seen in terms of promoting public sector accountability and service delivery through monitoring and assuming a watchdog role (Dell, 2006; Department of Public Service and Administration, 2003; Peters, 2007). In his resource book, Holloway (2008) clarifies this matter in simple terms.

Monitoring corruption is inspired by the concern that corruption is an insidious phenomenon that is often obscured and concealed (Holloway, 2008). On the other hand, advocacy is driven by the desire to influence the public policy process. Holloway (2008) maintains that advocacy is intrinsically a political activity. It can be argued that the advocacy work done by most CSOs has resulted in calling some of these organisations pressure groups because advocacy entails a lot of putting pressure using arguments and moral authority (Holloway, 2008).

This study acknowledged in advance, that, advocacy work is a political practice that requires some discursive analysis. It is precisely the notion of justifying action by argumentation that inspired a Hajerian argumentative discourse analysis. It needs to be emphasised that advocacy work is largely based on monitoring work.

It is very much important to note the fact that Holloway makes when considering civil society as an instrument to fight corruption. It is true that civil society does not enter the arena to fight corruption with the backing of citizenry as a whole. Civil society will always represent the interests and opinions of self-selected individuals. However, the role of civil society in the fight against corruption cannot be castigated simply because it does not enjoy the legitimacy of the broader society. The critical point is that fighting corruption is driven by the commitment to counter the corrosive effects of corruption on societal values and democratic ideals.

Although generally there is an acceptance that civil society should take its place in the fight against corruption, at the same time, there is also some amount of scepticism of the intentions of civil society. Nonetheless, Van der Merwe (1999) outlines some of the activities that civil society should carry out as part of formal social activism. These activities include: networks of initiatives, organisations and structures for collaboration; networking with relevant institutions in the public and

private sectors; monitoring and research; public awareness; support services and networks to victims of corruption; training and education; and develop and promote best practices. It is evident that there is a lot of work that civil society can undertake to uproot corruption from all sectors of society. South African civil society, particularly CBOs should utilise all these guidelines and information to support the fight against corruption.

## 3.5 Some empirical research on the role of civil society

There are quite a few studies done to assess the problem of corruption in South Africa. Most of these studies do not focus primarily on civil society but tend to reflect the role of civil society in curbing corruption. Some of the reflections of the role of civil society in the fight against corruption appear mainly in the documents produced by government and the NACF. In this section, a meta-analysis of various research reports on the role of civil society in the fight against corruption is undertaken.

### 3.5.1 The 2003 National Victims of Crime Survey

Most studies conducted in South Africa indicate that corruption is a major problem. The 2003 National Victims of Crime Survey conducted by Institute for Security Studies shows that corruption is one of the common types of crime in the country (Burton, Du Plessis, Legget, Louw, Mistry & Van Vuuren, 2003). According to this survey, 40% of respondents believe that corruption is increasing in the public sector. Although this study focuses on public perception of crime in general, it reflects the role of civil society, particularly the media in shaping the public opinion. Media tends to report cases of alleged grand corruption by public officials. In this study, the role of civil society is hinted rather than empirically analysed. The fact that the relatively high perception of

corruption is attributed to contribution made by media should be seen as a knowledge claim.

### 3.5.2 The Country Corruption Assessment: South Africa

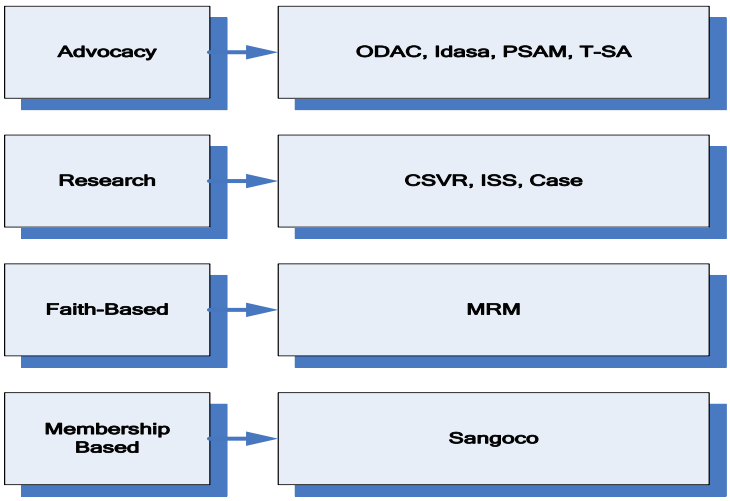
Hollands (2007) reveals that civil society in South Africa has made a contribution in the fight against corruption, especially with regard to the creation of value framework and institutional strategies. While it is accepted that civil society has played a significant role in the development of a national integrity system, this role is often described in general terms.

Hollands, in his case study of corruption in infrastructure delivery, argues that the rationale for establishing independent anti-corruption agencies emerged from the experiences and knowledge generated from civil society. He lists various CSOs that are involved in the fight against corruption. However, he admits that little is actually known about the anti-corruption work of these CSOs. His analytical assessment of anti-corruption work of civil society is based entirely on the Country Corruption Assessment Report published by the Department of Public Service and Administration and the United Nations Office on Drugs and Crime.

The Country Corruption Assessment (CCA) is one of the very few comprehensive studies conducted to assess the national anti-corruption framework. Unlike many other studies that only assess the efficacy of anti-corruption measures in the public sector, the CCA goes beyond government and looks at various initiatives developed to fight corruption in all sectors of society. The CCA combines both qualitative and quantitative approaches in assessing the scale of corruption. Its methodology entails field interviews, surveys and desktop research. The assessment of civil society is mainly done through desktop research. Data sources include numerous publications of NGOs.

In terms of this study, there are at least nine CSOs that are actively involved in the fight against corruption. These CSOs can be classified into four categories as outlined in Figure 3-2 below. The categories are: advocacy, research, faith-based and membership-based. The CCA claims that civil society is lagging behind in terms of setting the anti-corruption agenda in South Africa. This study only cites a few examples of the work of these CSOs. It captures the work of the following organisations: the Open Democracy Advice Centre, Sangoco and the Institute for Security Studies.

**Figure 3-2: CSOs fighting corruption by categories (CCA)**




### a) Open Democracy Advice Centre

The CCA indicates that ODAC offers training and support in the implementation of two anti-corruption laws, the Promotion of Access to Information Act (PAIA) and the Protected Disclosures Act (Act No. 26 of 2000).

### b) South African NGO Coalition

In terms of the CCA, the South African NGO Coalition (Sangoco) does not seem to be doing much anti-corruption work beside the code of conduct it developed for its members. This study indicates some problems with the leadership of this organisation. Holloway (2008) suggests that any NGO that has organisational challenges is likely to experience difficulties in doing anti-corruption work. In January 2001, Sangoco held an NGO week.

### c) Institute for Security Studies

In terms of the CCA, the Institute for Security Studies (ISS) seems to have substantial resources, which enables this organisation to perform its anti-corruption work with distinction. This applied policy research organisation has a dedicated anti-corruption unit. Its work includes research conducted on issues of corruption, an internet portal on corruption and an electronic newsletter.

From the above examples, it is evident that the CCA is not able to demonstrate empirically how civil society is contributing towards the eradication of corruption. In a relentless manner, the report concludes that “in spite of their good contributions, CSOs could play a far more active role in combating corruption” (DPSA & UNODC, 2003, p.86). Mathekga (2007) maintains that civil society has a legitimising and substantive role to play in a democratic setting. It is the substantive role that needs to be empirically assessed.

## 3.5.3 The National Integrity System Country Study: South Africa

The concept of a “National Integrity System” was coined in the mid 1990s by Transparency International (TI) to describe institutions, practices and laws aimed at increasing accountability and preventing corruption (Van Vuuren, 2005). The

elements of the National Integrity System (NIS) includes: the Executive; legislature; elections/political party funding; supreme audit institutions; judiciary; civil service; police and prosecutors; public procurement; ombudsman; investigative/watchdog agencies; media; civil society; regional and local government and progress with government strategy (Doig et al, 2006; Transparency International, 2007). Each of the elements is expected to tackle particular aspects of corruption. It is acknowledged that no single element can comprehensively deal with corruption. Therefore all elements need to work together as one system to address corruption.

The TI National Integrity System country studies comprise narrative reports, analysis and questionnaire responses. In terms of methodology, NIS studies conduct qualitative assessment of the national integrity system in a country. The methodology combines field research and desktop research. Data sources include legislation, governmental and non-governmental reports, news media coverage, corruption diagnostics, academic analysis, expert interviews and focus group discussions (Transparency International, 2007).

TI conducts NIS studies in countries mostly through its national chapters. However, the South African study was done by ISS on behalf of TI. Doig et al explain that the NIS study should include a country overview and corruption profile, with evidence of patterns, levels and causes of corruption, as well as a thorough discussion and analysis of each element of the NIS. One expects to see a detailed analysis of the role of civil society in the NIS study.

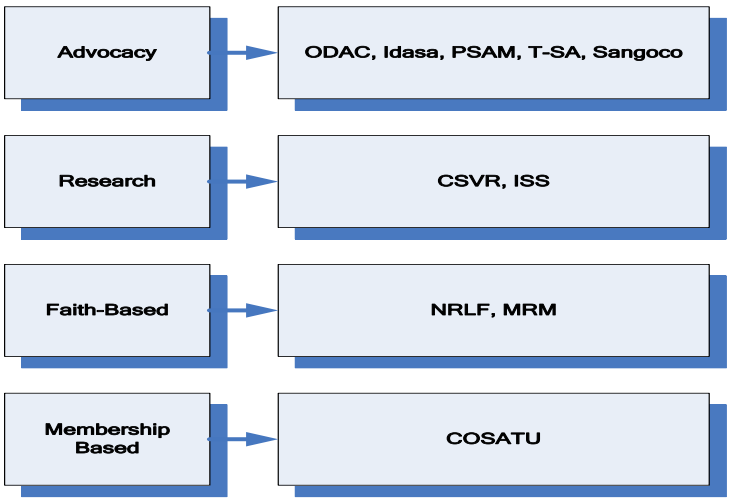
The South African National Integrity System Country Study does not offer much new information on the anti-corruption work of civil society. Like the CCA, this study identifies four categories of civil society. However, some slight changes can be observed in these categories. Figure 3-3 below illustrates these CSOs by categories. Whereas CCA describes Sangoco as a membership-based organisation, this study classifies it under the advocacy category. Both the NRLF

and COSATU, representing faith-based organisations and membership based organisations respectively, are added to a list of CSOs fighting corruption in South Africa. The study covers the work of the following CSOs: COSATU, PSAM, ODAC and Idasa.

### a) Congress of South African Trade Unions

In terms of this study, organised labour especially the Congress of South African Trade Unions (COSATU) is playing a very critical role in the fight against corruption. COSATU is reported to be more vocal against corrupt practices within government, private sector and the labour movement (van Vuuren, 2005). At the COSATU 8th National Congress on the Union, Political Good Governance and Moral Regeneration, which was held from 15-17 September 2003, seven resolutions that relate to corruption prevention were made.

**Figure 3-3: CSOs fighting corruption by categories (NIS study)**




These resolutions dealt with issues of declaration of assets by members of political parties in government, exclusion of companies found guilty of corruption

from government tenders and monitoring of anti-corruption policies within government and private sector. The report of this NIS study does not provide any information on the implementation of these resolutions.

### b) Faith-based organisations

The National Integrity System Country Study limits the ant-corruption work of faith-based organisations to some regular meetings and conferences. The NRLF is well known for having bi-annual meetings with the State President. This study indicates that the NRLF used one of these meetings to raise concerns with the manner in which the NACF was functioning. This resulted in the revitalisation and reconstitution of the NACF in 2002. The NRLF as a religious body principally advocates ethical values through its constituencies. The MRM on the other hand, is well known for taking part in the state organised Moral Regeneration Summit. The report also mentions other religious bodies such as the Southern African Catholic Bishop's Conference (SACBC) and the inter-denominational Christians against Corruption. Again, the report is very silent about the outcomes of these meetings and conferences.

### c) Public Service Accountability Monitor

In terms of the NIS study, Public Service Accountability Monitor (PSAM)'s notable initiative is the searchable internet-based case monitoring database developed as a tool to track individual cases of reported misconduct in the Eastern Cape Province. In his guide of NGOs, Holloway (2008) presents PSAM as a story of success for doing anti-corruption monitoring and advocacy work. The National Integrity System Study discounts this best practice by PSAM especially when considering that the most government initiatives received some extensive review.

### d) Open Democracy Advice Centre

In addition to training and support provided in the implementation of legislation, this study indicates that ODAC boasts a hotline (*0800-lalela*) to assist whistleblowers to report corruption.

### e) Transparency South Africa

T-SA is well known for convening the 2002 Civil Society Anti-corruption Summit and the subsequent provincial workshops.

### f) Institute of Democracy in South Africa

Idasa Political Information Monitoring Service contribution in the development of the Prevention and Combating of Corrupt Activities Act is highly acknowledged by this study. However, the well publicised Party Political Funding Campaign spearheaded by Idasa, which is also cited in the Transparency International Corruption Fighters' Toolkit as a success story of advocacy, receives a very terse description. Transparency International (2003) demonstrates that Idasa carried out extensive work on private funding of political parties. This work entails a submission made to Parliament; conference held on this issue; articles published in local newspapers; and of course, the court case launched by Idasa and its partners to force political parties to disclose records of their private funding.

The description of the work of civil society by both the CCA and NIS study remains essentially the same with little elaboration and added information by the latter. A large chunk of information that describes civil society work in the NIS study is presented precisely in the same manner as in the CCA.

## 3.5 International experience

Corruption is a global phenomenon. Each and every society, regardless of its geographical location and industrial development has to grapple with corruption and issues of ethicality (Huberts, Maesschalck & Jerkewitz, 2008). Multi-lateral organisations such the OECD and the United Nations (UN), as well as international financial institutions such as the World Bank and International Monetary Funds (IMF) have embraced the prevention of corruption as necessary for promoting good governance. All these institutions are very much involved in the fight against corruption. The UN is well known for pioneering the United Nations Convention against Corruption. The OECD Convention on Combating Bribery of Foreign Public Officials in International Transaction developed under the aegis of the OECD. The World Bank and the IMF also contribute immensely in the design of strategies and programmes for fighting corruption.

When it comes to civil society, there is no doubt that Transparency International (TI) is the ubiquitous example of a civil society fighting corruption at global level (Huberts, Maesschalck & Jurkiewicz, 2008). This global NGO was established in 1993 by Peter Eigen to curb corruption worldwide (Galtung, 2001). By 2006, TI had national chapters in 99 countries (Huberts et al, 2008). TI has taken a non-confrontational approach to fighting corruption. Instead of investigating and exposing corruption scandals, TI chooses cooperation, encouragement, advice-giving, education and personal influence (Galtung, 2001).

TI maintains that its chapters in Africa have played an active role in advancing the African Union Convention on Preventing and Combating Corruption and United Nations Convention against Corruption (Dell 2006). The South African government has ratified both conventions. It is not known to what extent civil society organisations are involved in the implementation of these conventions in the country. Peters (2007) maintains emphatically that civil society can put government to scrutiny by identifying and questioning the government actions. This requires civil society to have access to instruments of accountability.

Through implementation of various anti-corruption and governance programmes, civil society may be empowered to engage meaningfully in the eradication of corruption in the country. During the investigation of the much publicised, high profile and controversial case of corruption in South Africa, the Arms Deal, Transparency International wrote to the former President of South Africa, Mr Thabo Mbeki indicating that “the perception locally and internationally is that the integrity of government is in question” (Feinstein, 2007, p187).

## 3.6 Conclusion

This Chapter acknowledges that civil society is a discourse first and foremost. Various studies have analysed the importance of this discourse and its relevance in public policy. Any study that wishes to examine the work of civil society requires elucidating this discourse from various perspectives. Once various perspectives have been brought to light, a paradigm that is closer to providing necessary answers to the main question can be suggested.

The central tenet of this Chapter is about the importance of paradigms in guiding the approach towards providing answers. A number of theoretical frameworks that could be used to describe the role of civil society in the fight against corruption were reviewed. The argument presented indicates that not all these theories can adequately address the critical aspects that define the role of civil society.

A few guidelines that can be used by civil society organisations to curb the prevalence of corruption are widely available. These guidelines are of paramount importance to emerging CSOs. They can also be used to design a checklist to which one can identify if CSOs are doing what they are supposed to do. The review of these guidelines provides a basis for understanding empirical studies conducted to examine the role of civil society in South Africa.

There is a need to reflect the work of civil society in concrete terms. This may help bolster efforts made by civil society to fight corruption in this country. However, it seems that it is easy to find some nebulous descriptions of the work done by most civil society organisations. The work of civil society in South Africa entails concrete programmes and agenda. The substance of this work needs to be presented in much detail and analysed. This may help civil society from being chastised for playing a passive oversight role.

# CHAPTER 4

# SAFEGUARDING THE NATIONAL INTEGRITY SYSTEM

## 4.1 Introduction

Fighting corruption implies that all critical areas and key institutions that are necessary for strengthening democracy are safeguarded and protected from the corrosive effects of corruption. As explained in Chapter 3, there are certain institutions, that when put together, constitute a national integrity system. These institutions include the judiciary, public service, political parties, Parliament and the executive and civil society. Each of these institutions has a role to ensure that the entire integrity system is safeguarded. Should any of these institutions be compromised by corrupt practices, all efforts to fight corruption become futile.

This Chapter profiles the anti-corruption work undertaken by various CSOs to safeguard the national integrity system. The chapter covers the work of the following CSOs: Open Democracy Advice Centre, Public Service Accountability Monitor, Institute for Security Studies, Institute for Democracy in South Africa, Sangoco and National Religious Leaders Forum. A brief discussion on the national integrity system is provided to elucidate the value of the work undertaken by civil society to combat corruption in all sectors of society.

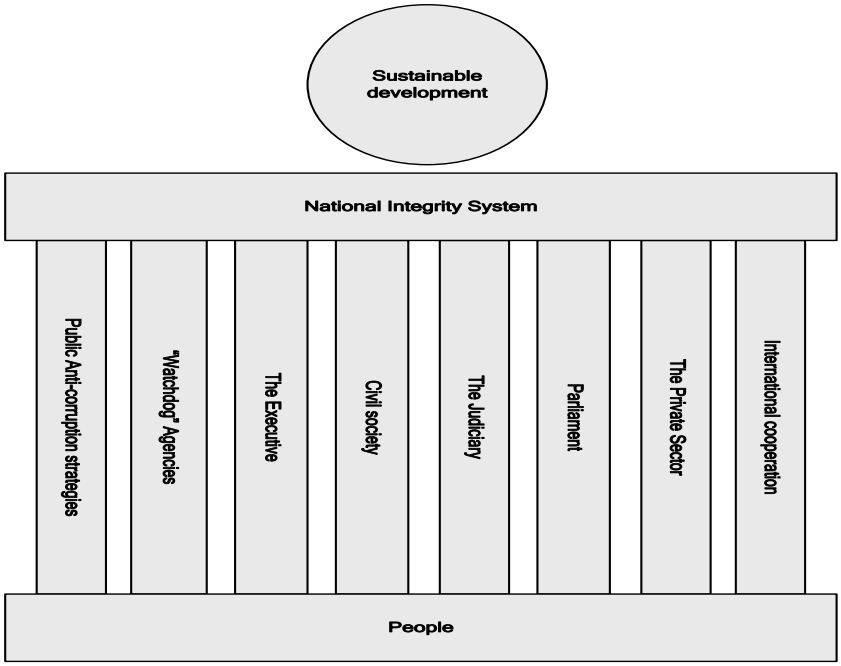
## 4.2 The National Integrity System in South Africa

This concept of a National Integrity System has found its prominence in anti-corruption discourse. Civil society, through the commendable work of TI, has placed this concept high on the agenda of international anti-corruption forums. It is common to hear governments and multi-lateral organisations referring to the National Integrity System when approaches and strategies to fight corruption are discussed. When this concept was coined by TI in the mid- 1990s, it was reified

in the manner that resembles some ancient temple as illustrated in figure 4-1 below. It is common to think of the National Integrity System as some kind of an edifice. The notion of an edifice seems to convey a message of a monolithic symbol of ethicality and sacredness.

Reference to the National Integrity System in South Africa was initially made during the formulation of a national approach to fight corruption. In 1994 the then speaker of Parliament, Dr Frene Ginwala stated that “South Africa is in need for a strong national integrity system” (Van Vuuren, 2005, p.8).

**Figure 4-1: Pillars of a National Integrity System**




Source: Langseth et al (1997)

Most elements of a National Integrity System in South Africa, like in many other countries, are predefined by the Constitution. The Constitution creates a Parliament, cabinet, the judiciary, public service and a number of independent institutions of democracy such as the Auditor-General, Public Protector and the

Human Rights Commission. In August 2008, the NACF hosted a national conference to discuss the consolidation of the national integrity system.

Civil society, though is also an element of the NIS, has undertaken to fight corruption in other elements of the NIS. At least seven CSOs are playing various roles to combat corruption in these areas. Sometimes various CSOs work in a coalition or partnership to make a more impact.

**Table 4-1: The Work of Civil Society as it relates to the NIS**

| Area of concern | Intervention | Organisations |
|---|---|---|
| Parliament/Legislature | Political information monitoring, Monitoring of disclosures of interests | Idasa; ISS |
| Judiciary | Judicial ethics monitoring | Idasa |
| Political parties | Party political funding campaign | Idasa, ISS and CSNAC |
| Cross-sectoral[5] | The right to know campaign; moral regeneration, ubuntu pledge and bill of responsibilities | ODAC; MRM, NRLF |
| Public service | Monitoring corruption and assessing anti-corruption measures | ISS, PSAM |
| The executive | Monitoring of disclosures and conflicts of interest | ISS |

## 4.3 Institute for Democracy in South Africa

The concept of democracy embodies the principles of human rights, civil liberties, the rule of law, independent agencies, public accountability, fair administrative practices, citizen participation, as well as representative and responsible government (Caiden, 2001). The term good governance is often used to describe the practice of these principles in a state. However, it is generally accepted that corruption poses a threat to these principles. Cherry (2006, p) stresses that corruption is “inimical to the normative foundations of democracy”.

[5] Cross-sectoral areas refer to all elements of the NIS.

Although South Africa has a strong Constitution, upholding principles of democracy is always a challenge. The Institute for Democracy in South Africa (Idasa) was established to promote sustainable democracy based on active citizenship, democratic institutions and social justice.

Idasa was founded in 1987 as an independent public interest organisation (Idasa, 2007a). It is one of the highly respected NGOs in South Africa and is known to have relationships with similar international organisations[6]. Commenting on the role of Idasa in promoting democracy in South Africa during the transition period, Taylor (2002, p.46) observes that:

> *"This institution was one of the more high-profile elements of the change industry and enjoyed considerable prestige and media presence as a trusted 'honest' broker."*

The anti-corruption work of Idasa is mostly done within the Political Information and Monitoring Service (PIMS) programme. The primary objective of PIMS is to support democracy and promote good ethical governance in South Africa. PIMS does this work through various advocacy programmes. The bulk of the anti-corruption work undertaken by PIMS involves research, submissions to Parliament, seminars and workshops, as well as publishing articles in the media. As Gary Pienaar indicates, this work is done within three main areas, namely, party political funding, judicial ethics and government ethics.

### 4.3.1 Party-political funding campaign

Preventing corruption in the funding of political parties is critical for enhancing the quality of democracy (Ewing, 2001). It is a moot fact that political parties need money for various operational reasons. Sarakinsky (2007) opines that, in actual

[6] Interview with Gary Pienaar, Senior Researcher: Political Information and Monitoring Service, 23 June 2008

fact, democracy needs strong and sustainable political parties with adequate financial resources. While financing of political parties is necessary, it can also be a problem (Pinto-Duschinsky, 2002). The concept of party political funding refers to "non campaign related financial or in kind donations to political parties, organisations and associations" (Carlson, undated, p.2). Therefore, public finance of political parties is precluded from this definition.

South Africa has no legislation regulating the private funding of political parties (Bryan & Baer, 2005; Saffu, 2003; Sarakinsky, 2007). As a result, political parties are not obliged to disclose their private funding (Jacobs, Power & Calland, 2001). Idasa asserts that this situation leads to corrupt practices and opaque political party financing:

> *"Secrecy encourages this sort of corrupt behaviour."*[7]

Idasa argues that this lack of disclosure practice makes it difficult to know the extent to which policy decisions are influenced because the nexus between power and money is vague and ambiguous (Jacobs et al, 2001). In fact, Idasa (2005, p.27) believes that electorates need to "know the identity of the hidden hand of the secret funder, whose influence is apparently so often malign". Sarakinsky (2007, p.115) has subjected this view to an empirical assessment and contends that "the disclosure and regulation of private funding of political donations has to be based on the circumstances and conditions that prevail in South Africa".

Media in South Africa often reports on various cases relating to private funding of political parties. One of the reported cases is the arms deal. In 1998, the South African government purchased about R30 billion worth of defence equipments as part of the Strategic Defence Procurement Package, better known as the arms deal. According to Robinson & Brümmer (2006, p.12), the arms deal is an

[7] Article published in News 24, January 2003

"example of the murky relationship between State, business and party". When the arms deal story emerged for the first time, opposition parties in Parliament called for judicial enquiry into the arms deal because they believed it was riddled with corruption (Mangcu, 2008). Idasa admits that the party political funding campaign emanates from the arms deal:

> "*It is partly historical – arising out of the arms deal*. *There was recognition that party funding is essential for public policy management".*[8]

Idasa has been at the forefront of the party political funding campaign since August 2002. The campaign took a form of a meticulously crafted advocacy initiative that followed logical steps as illustrated in Figure 4-2. It started formally when the Prevention of Corruption Bill was tabled in Parliament in 2002 and civil society organisations were asked to comment on the Bill (Transparency International, 2003). Idasa studied the Bill and identified a specific problem. The Bill did not cover the private funding of political parties and Idasa described this omission as a lacuna (Transparency International, 2003).

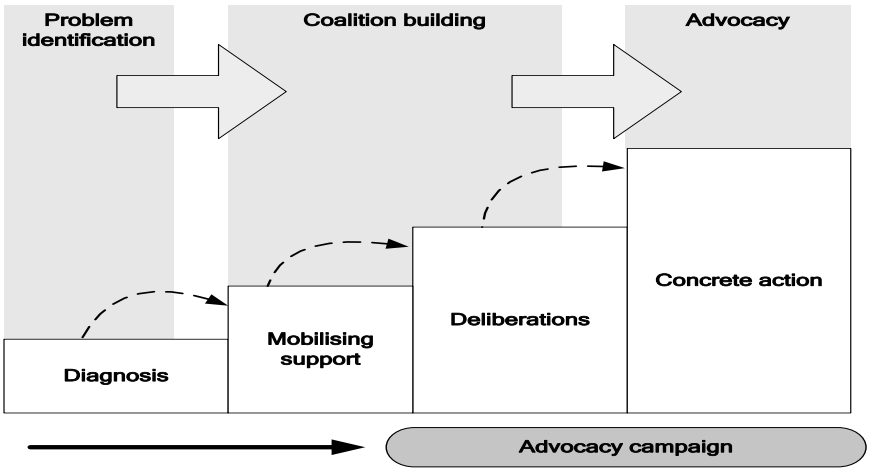
It is common for advocacy efforts to see the formation of coalitions in order to produce a successful campaign (Holloway, 2008). Idasa drove the party political funding campaign in a coalition with other CSOs such as the Open Democracy Advice Centre, South African Catholics Bishops Conference, South African Council of Churches, the Black Sash and Institute for Security Studies. The main objective of this campaign was to secure regulation of private funding of political parties in South Africa. The campaign group believed that legislation is required to address issues of conflicts of interest of politicians and political corruption.

In November 2002, the campaign group hosted a conference in Pretoria to discuss party political funding. Idasa invited Members of Parliament, civil society

[8] Interview with Gary Pienaar, 23 June 2008

representatives, the Independent Electoral Commission (IEC) as well as international experts. The conference resolved that rules designed to regulate the private funding should be intended to promote both multi-party democracy and accountability. Moreover, the conference held a consensus that regulation should cover a wider definition of donation to include payments-in-kind, loans and special discounts. The regulation would also require corporations to make disclosure of all donations to political funding.

**Figure 4-2: The Evolution of the Party Political Funding Campaign**




In October 2003, Idasa published a position paper titled: “Regulation of Private Funding to Political Parties” (Idasa, 2003). This paper calls for legislation to regulate party funding in South Africa. The key argument of this paper is that the regulation of party funding has the potential to strengthen democracy, curb opportunity for corrupt practices and promote constitutional rights. The paper further conceptualises the debate on the private funding of political funding. Idasa treats this paper as the founding document for engaging on a public campaign to raise awareness and to engage various stakeholders including political parties.

Idasa recognised that deliberating and writing on this matter would not force government to make any policy change. Therefore, a decisive action was

needed. In November 2003, Idasa chose to take the litigation route using the Promotion of Access to Information Act (Act No. 2 of 2000) (PAIA) and affidavits presented by both local and international experts[9] (Bryan & Baer, 2005; Idasa, 2007; Transparency International, 2003). An application was sent to the High Court of South Africa (Cape of Good Hope Provincial Division). The application sought to establish the principle that political parties are obliged in terms of section 32(1) of the Constitution and section 11 or section 50 of PAIA, to disclose particulars of all substantial donations of more than R50 000. Moreover, the application requested particulars such as date of donation, the name of donor, the amount or value of the donation and the conditions on which it was made and received. The application was vehemently opposed by four political parties, namely; the African National Congress (ANC), Democratic Party, New National Party and Inkatha Freedom Party. The ANC presented the Heads of Argument to the Court to seek the dismissal of the case or a stay of the proceedings.

On 20 April 2005, Judge Griesel of the Cape High Court dismissed Idasa's application to access records of private donations made to the four political parties (Robinson & Brümmer, 2006). Judge Griesel found that the access to records of private donations was not reasonably required for the access and protection of the right to free political choice, including the right to free and fair elections. Following this judgment, Idasa released a media statement to express their disappointment. Although initially it looked like Idasa would appeal, no such appeal was made.

Idasa continues to engage with partners and other stakeholders on the issue of party political funding. The ANC's position in court is extensively used as the basis for further post-litigation discussions and engagements. Idasa cites the Heads of Argument in which the ANC stated that "the question of regulation and control should be addressed and implemented through a legislative process

[9] A total of seven affidavits were presented including two from international experts, Michael Pinto-Duschinsky (British Political Scientist) and Keith Ewing (British Public Law Professor).

which will embody national policy perspectives and the balancing of the rights interests of all persons, including the electorate, political parties and their donors".

In May 2005, Idasa convened a media conference to announce the Idasa's decision on appeal to High Court decision and the next phase of the campaign. However, during the media conference, Idasa announced that it will not proceed with the appeal, but instead, it will continue to campaign for legal reform in accordance with the South African Constitution, the African Union Convention against Corruption, the good practice of modern democracies elsewhere and the ANC's own position in Court.

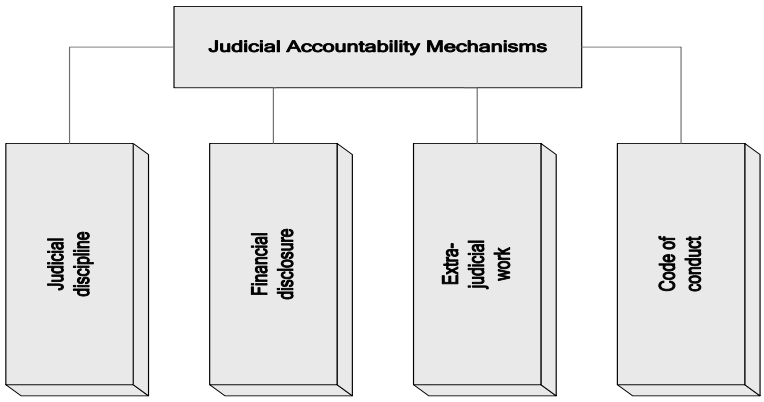
At the Multi-Stakeholder Conference that was hosted by the Electoral Commission from 8 – 10 October 2007, Idasa delivered a paper titled "Democracy and Party Political Funding: Pursuing the Public's Right to Know". In this paper, Idasa emphasised that it would not abandon their "assertion that the public have a constitutional right to know who privately funds political parties". Idasa believes that political parties should be afforded a further opportunity "to fill the lacuna that exists in the anti-corruption policy and legal apparatus by processing appropriate legislation through Parliament". Idasa has undertaken to continue to engage with all sectors including business, organised labour and civil society to encourage a social consensus on the principles and detail of the transparency and regulatory regime. Although Idasa lost the court case, the party political campaign represents a bold step. International practice demonstrates that South Africa is one of the few countries without a legislation to regulate party political funding.

### 4.3.2 Judicial ethics

Idasa believes it is important that judges uphold certain values and ethical standards because the judiciary defends and protects the Constitution. This is a

sentiment echoed by Transparency International (2007a), which argues that judges should not be at liberty to behave as they please under the pretext of judicial independence.

**Figure 4-3: Pillars of the Judicial Accountability Mechanisms**




Recently there have been a number of cases of unethical conduct by judges in the country. Idasa has embarked on a campaign that seeks to see judges maintaining minimum standards of competence and ethics. The campaign is built on the argument that judges are often confronted with ethical issues in their course of service (Idasa, 2007). This argument is premised on the belief that rules are necessary to promote judicial ethics and enhance public confidence in the administration of justice.

Judicial accountability refers to the ability to hold the judiciary responsible for its actions (Transparency International, 2007a). The judiciary can achieve this accountability through maintaining discipline, adopting financial disclosure practices, proper management of extra-judicial work as well as implementing the code of conduct. Figure 4-3 above captures these areas as the four pillars of judicial accountability.

South Africa has recognised the need to adopt new laws to govern judicial accountability (Idasa, 2007). In 2007, Idasa produced a research paper on Judicial Accountability Mechanisms. The paper provides a description of the position on judicial discipline, judicial financial disclosure, extra-judicial work and judicial codes of conduct in South Africa (Seedat, 2007). In July 2008, JSC called for submissions to whether or not the pending hearing into the complaints by the Constitutional Court and Judge President John Hlophe should be public. Idasa and the University of Cape Town made a joint submission to JSC arguing for public hearing. In June 2009, Idasa held a roundtable on judicial ethics in South Africa.

### 4.3.3 Government ethics

Government has since 1997 implemented conflict of interest measures. The Code of Conduct for the Public Service was introduced in 1997. In 2000, a Code of Ethics for Executive members was introduced for elected officials. Idasa initiated research on the codes of conduct for executive members and government senior officials in 2003, which culminated in a report titled: “Government ethics in post-apartheid South Africa”. The report indicates problems in terms of the implementation of various laws and codes of conduct aimed at ensuring ethical behaviour by public officials and maintaining confidence and integrity in public office.

In terms of post-employment restrictions, PIMS has identified another lacuna in government ethics framework. Currently, government does not have measures in place to deal with post-employment activities of former public officials. Post-employment measures primarily deal with restrictions imposed upon public officials who leave, retire or resign from public office. The measures are designed to ensure that former public office holders derive no unfair advantage for themselves or others. In the absence of these measures, public officials may abuse their positions to benefit certain individuals, themselves, or companies in

exchange for favours, such as employment opportunities, after they have left the public office. In 2004, PIMS published an article in the Idasa's electronic newspaper, *ePoliticsSA,* raising challenges on the implementation of codes of conduct.

Government has subsequently included post-employment measures in the Draft Public Administration Management Bill, which was tabled in Parliament in 2008. In May 2008, PIMS made a submission to Parliament on the Draft Public Administration Management Bill. PIMS criticises the Draft Bill for narrow interpretation of employees who fall under the scope of this Bill (Idasa, 2008). PIMS argues that examples from elsewhere in the world indicate that South Africa should be cautious about introducing less comprehensive and less rigorous legislation, that ends up being inadequate in addressing the many real concerns surrounding conflicts of interest.

### 4.3.4 Other activities

In addition to the above issues, from time to time, Idasa does bring out some spin-off issues that relate to anti-corruption and ethics to the attention of the public. These issues include the arms deal, Scorpions, Travelgate as well as the corruption case of the president of the ANC, Mr Jacob Zuma. Articles, quick guides and questions and answers are published in *ePoliticsSA* and print media. Moreover, Idasa continues to work closely with other CSOs, particularly the ISS on matters relating to funding of political parties and conflicts of interest of public officials. Both organisations are involved in the joint implementation of the party funding monitor discussed in more details under ISS.

Idasa receives substantial funding from various donor agencies and South African public and private institutions. It is one of the few non-profit organisations that are able to sustain their programmes through healthy donor funding. It

boasts good human and financial resources. The success of Idasa can be attributed to its good corporate governance practices. During 2008, PIMS staffers produced about 38 articles on the topic of corruption, accountability and democracy (Idasa, 2009).

## 4.4 Open Democracy Advice Centre

Democracy thrives on an open and transparent system of governance. Most democracies acknowledge the need for an access to information regime. In South Africa, the Constitution of the Republic of South Africa is the key policy framework for access to information. In terms of section 32 (1) of the Constitution, everyone has the right to access to information held by the state or privately, that is required for the exercise or protection of any rights. A national legislation, the Promotion of Access to Information Act (Act No. 2 of 2000), has been enacted to give effect to this constitutional imperative. Despite the promulgation of this piece of legislation, the campaign for access to information continues to be on the agenda of civil society. This campaign has given rise to the Open Democracy Advice Centre (ODAC), a Cape Town based NGO committed to promoting democracy and fostering a greater culture of transparency (Balia, 2005).

ODAC was established in 2002 by Idasa, the Black Sash Trust, and the Public Law Department of the University of Cape Town (Hutchings, Dimba and Tilley, 2008). It was formed after a triumphant campaign orchestrated by civil society for access to information legislation and legislation to protect whistleblowers (Balia, 2005; Hutchings et al, 2008). The work of ODAC revolves mainly around interventions aimed at the provision of legal advice and helping citizens to access their rights, in respect of the PAIA, PAJA and PDA. In pursuance of this work, ODAC undertakes the following projects to support and promote transparency, accountability and responsibility through the implementation of both the PDA and PAIA.

### 4.4.1 Whistleblowing Helpline

Whistleblowing is generally accepted as an important tool in the fight against corruption (Whitton, 2008). In 2000, South Africa introduced the Protected Disclosures Act (Act No 26 of 2000) - (PDA) to protect employees in the public and private sectors from occupational detriment when reporting corrupt practices and other wrongdoing[10]. This piece of legislation is also complemented by the Prevention and Combating of Corrupt Activities Act (Act No of 2004), which makes it a duty for anyone to report corruption. Reporting corruption should be understood as raising a concern about malpractice in an organisation (Dehn, 1999). Persons who raise concerns are generally known as whistleblowers. Therefore whistle blowing entails the disclosure of illegal, unethical practices in the workplace. A whistleblower is anyone who reports illegal and unethical practices in the workplace.

ODAC launched a toll-free whistleblowing helpline in 2002 (Stober, 2006). The whistleblowing helpline is a confidential legal helpline through which ODAC advises whistleblowers. About 80 calls a month are made to the helpline. Calls come mainly from white collar workers and professionals. ODAC believes that without obtaining legal support, it is difficult for ordinary people to use the PDA to protect themselves:

> "*Using these laws is difficult without lawyers. Ordinary people would not have access to these laws*"[11]

Therefore ODAC provides legal assistance to employees who have been penalised for blowing the whistle to seek redress. Most whistleblowers who survive from being disciplined for blowing the whistle are often forced out of the organisations months later. Survivors are harassed and subjected to

[10] Presentation by Allison Tilley at the 2nd National Anti-corruption Summit held on 22nd -23rd March 2005, Pretoria.
[11] Interview with Chief Executive Officer of ODAC, Ms Alison Tilley, 19 June 2008.

occupational detriment. ODAC often intervenes to support whistleblowers through legal representation.

ODAC borrowed the concept of a helpline from one NGO in the United Kingdom (UK) [12]. A successful practice of the concept in the UK inspired ODAC to pursue this initiative in South Africa. The helpline is a useful tool for everyone who wished to report corruption.

### 4.4.2 Advocacy work on the Protected Disclosures Act (Act No. 26 of 2000)

Information received through the helpline also contributes to the advocacy work undertaken by ODAC to reform the Protected Act (Act No. 26 of 2000). ODAC has made submissions to the South African Law Reform Commission (SALRC) asking for the PDA to be amended to address the following issues:

- Extending the scope of the PDA to cover agency workers, independent contractors and the general public;
- Protecting whistleblowers from being sued for making protected disclosures; and
- Lifting the ceiling on compensation so that whistleblowers can claim damages.

The SALRC has made recommendations to the Department of Justice and Constitutional Development to amend the legislation. In the past few years, ODAC used the NACF to advocate for the amendment of the PDA (Open Democracy Advice Centre, 2006). This matter is often discussed in the meetings of the NACF[13]. ODAC continues to raise concerns with the sluggish manner in which government is handling this matter.

[12] Ibid
[13] Minutes of NACF meeting held on 29 August 2007

### 4.4.3 Training on the Protected Disclosures Act (Act No. 26 of 2000)

In addition to advocating change in the PDA, ODAC provides training to officials both in the private and public sectors on the importance and value of whistleblowing in the workplace (Stober, 2006). Road shows and workshops are conducted throughout the country. ODAC also assists government departments in developing whistleblowing policies. In order to support this work, ODAC publishes various educational materials and takes the opportunity to explain the PDA through media. As a result, more people have become more sensitised about this law:

> *"People talk more about whistle blowers than five years ago"*[14]*.*

Through opinion surveys conducted every five years, ODAC is able to determine the level of awareness of the PDA.

### 4.4.4 The right to know campaign

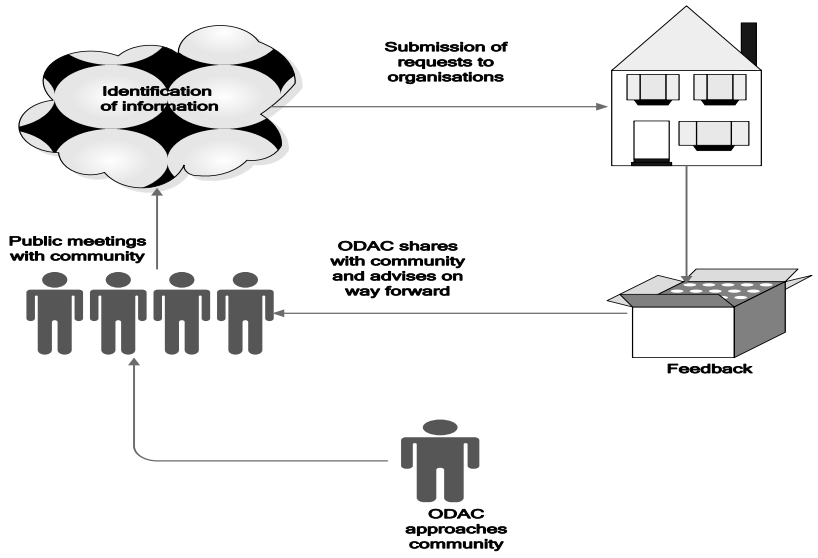
A substantial amount of work undertaken by ODAC entails advocacy through the provision of support for requests of information. According to the Chief Executive Officer of ODAC, Ms Alison Tilley[15], a number of NGOs and CBOs make a lot of requests for information. ODAC visits communities who seek assistance with regard to information required for the exercising of their rights. These communities normally request information from local authorities and state bodies regarding issues of service delivery (Edmunds, 2006).

The process of requesting information takes a very simple process as illustrated in Figure 4-2. An outreach officer from ODAC visits a community and discusses their development needs with them (MISA, 2005). The discussion is followed by the identification of information that could help address the needs of the

[14] Ibid
[15] Interview conducted on 19 June 2008.

community. ODAC then submits a request for information to the relevant institution. When feedback is obtained, ODAC shares the information with the community and provides further advice on how the community can proceed with the matter. Engagements with communities normally take the form of public meetings (MISA, 2005).

**Figure 4-4: Process to request information**




ODAC chooses to work with organisations rather than individual members of communities. Tilley stresses that working with individuals is likely to create capacity burden for ODAC. The outreach programme of ODAC has mainly focused on communities in the Western Cape, Eastern Cape, North West, Northern Cape and Kwa-Zulu Natal. Fieldworkers, through the "Right to Know, the Right to Live Programme", are deployed to communities to collect complaints from citizens and CBOs (Edmunds, 2006).

It is estimated that about 10 000 requests of information have been filed with the state since PAIA was enacted in 2000.[16] Most of the requests are refused or

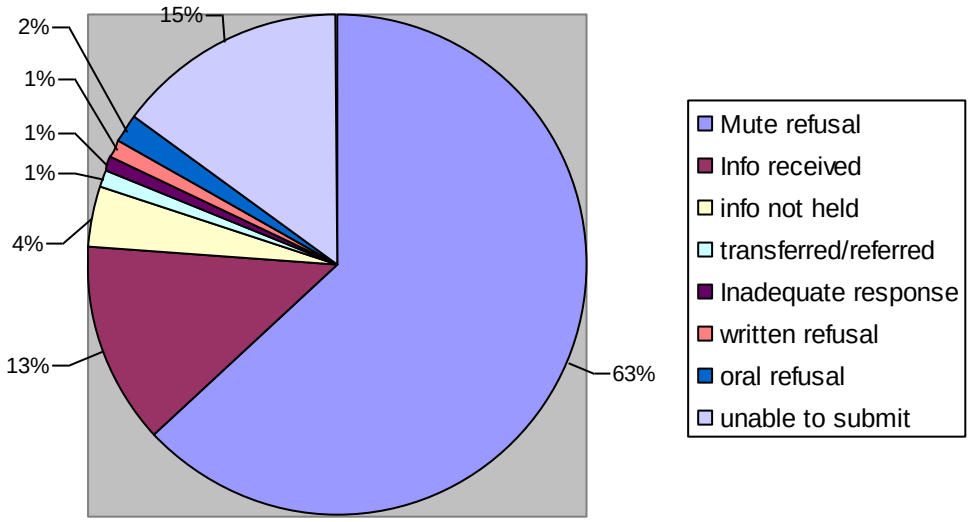
[16] Financial Mail, June 2008

simply ignored. ODAC attributes the refusal to the tendency to hide information because requests are regarded as hostile:

"*There is still strong sense of secrecy*"[17]

Refusal and ignorance often instigate litigation. The study conducted by ODAC in 2004 indicates as shown in figure 4-2 that 63% of requests are met with mute refusal (ODAC, 2006). ODAC continues to work with government departments to ensure that information officers are appointed to deal with requests of information.

**Figure 4-5: Official responses to request of information**




Source: ODAC 5 Year Review, p.16

In recent years ODAC has also advocated for an institutional mechanism in the form of an information commissioner to improve the implementation of PAIA.

The high percentage of refusal to request of information can also indicate some problems with the implementation of PAIA. ODAC conducts training courses and

[17] Ibid

workshops on PAIA. These courses and workshops are conducted to equip organisations and individuals with the necessary knowledge and skills to comply with legislation, and to use the legislation to their advantage. This is to ensure improved Corporate Governance in the Public and the Private Sector through enabling people to expose corruption the workplace without risk, and to improve the quality of decision making and of people's lives through greater access to information.

### 4.4.5 The Golden Key Awards

In 2006, ODAC and the South African Human Rights Commission (SAHRC) launched an initiative called the Golden Key Awards as a way to enforce compliance with PAIA. Both organisations use the Golden Key Awards to mark the International Right to Know Day. International Right to Know Day is celebrated annually on 28 September. The objective of the Awards is to celebrate best practice in terms of implementing PAIA.

**Table 4-2: Categories of the Golden Key Awards**

| Category | Criteria |
|---|---|
| Public institutions | for promoting and implementing PAIA through developing organisational policies and procedures |
| Deputy information officers | for performing well in the execution in terms of PAIA |
| A citizen or organisation | for using PAIA quite frequently |
| Journalist | for writing the best story on the use of PAIA |

Both ODAC and SAHRC designed the Golden key Awards to recognise government departments, deputy information officers, private institutions, journalists and members of the public that have made some contribution towards

the promotion of openness, transparency and accountability in the public and private sectors through the usage of and compliance with PAIA.

The Awards essentially aim to recognise best practice in terms of the implementation of the PAIA. Participants are judged using a diagnostic tool developed by ODAC. This event is preceded by an intensive research process, which culminates in the development of indicators that are used to judge participants. The Awards primarily uses four categories of participants as shown in table 4-2 to recognise the best practice in terms of promoting the implementation of PAIA.

Through this initiative, ODAC contributed to the establishment of the Deputy Information's Officer Forum (ODAC, 2006). About 90 information officers participated in the first meeting of the Forum. ODAC uses the Forum to discuss issues relating to the requests of information. Information officers also get the opportunity to share their experiences in terms of complying with requests of information.

There is no doubt that the Golden Key Awards is an innovative mechanism to get PAIA effectively implemented. This initiative needs to be regarded as a good practice. It is almost three years since the initiative was launched in 2006. There is a clear indication that government is supporting this initiative. Since its inception, government departments and components have continuously participated in this initiative. This initiative provides a platform for further collaboration and cooperation in policy implementation. The initiative opens a space for policy dialogue between government and civil society. According to Innes and Booher (2003), collaborative dialogue is essential for policymaking strategy. As evident in the Golden key Awards, the dialogue between government and civil society is contributing towards a reciprocal relationship.

## 4.5 The Public Service Accountability Monitor

According to Hollands (2007), the reason the scale of corruption is not well known in South Africa is due to deep disagreement between government and political detractors. Nonetheless, there are few observers who have reported the high prevalence of corruption, particularly in provincial administrations. Holloway (2008) maintains that the Eastern Cape provincial government is one of the most corrupt provinces in South Africa. Public Opinion Surveys conducted by Idasa from 1995 to 2000 have consistently rated the Eastern Cape as among the most if not the most, corrupt province in South Africa (Allan, Mattes & Millie, 2002; Cwati, 2004). A survey of public officials' perception of corruption in the Eastern Cape conducted by Public Service Accountability Monitor (PSAM) in 2001 indicates that 13% of surveyed public officials "felt that 'most' or 'almost' all of their own departmental colleagues were involved in corruption" (Allan, et al. 2002, p.37).

Allan, et al attest to media freedom as one of the reasons which saw an upsurge in reported cases of corruption in the Eastern Cape post 1994. Not much was known regarding the resolution of these cases. The lack of reliable, independent and credible information on reported cases of corruption in the Eastern Cape inspired the formation of PSAM. PSAM is a programme of the Centre for Social Accountability (CSA)[18] based at Rhodes University in the Eastern Cape (Hollands, 2007). This programme was founded in 1999 to conduct independent research, monitoring and policy analysis (Holloway, 2008).

Unlike ODAC, PSAM primarily seeks to strengthen democracy at a provincial level and has chosen one particular province to do that. PSAM is more concerned with issues of transparency and accountability in the provincial government of the Eastern Cape. Moreover, its focus is solely on activities of government and not any other sectors of society. It aims to improve public

[18] www.psam.org.za

service delivery through monitoring and following up on reported cases of corruption and maladministration in the province (Allan, et al. 2002).

Hollands (2007, p.28) maintains that PSAM has developed “a strong reputation for tracking departmental maladministration (sic) and specific cases of reported misconduct”. The good work of PSAM was also praised at the 2nd National Anti-corruption Summit and its approach was described as meticulous (National Anti-corruption Forum, 2006). It was reported at this conference that PSAM investigated over 600 cases of lost revenue amounting to R7 billion in the Eastern Cape Province.

PSAM is currently implementing five projects, namely, case monitoring project, performance monitoring project, research surveys, civic empowerment project and advocacy and communications project. These tools have been developed in order to systematically monitor the public resource management cycle and will enable citizens to hold government officials accountable for the delivery of services and the performance of their duties.

### 4.5.1 Case monitoring project

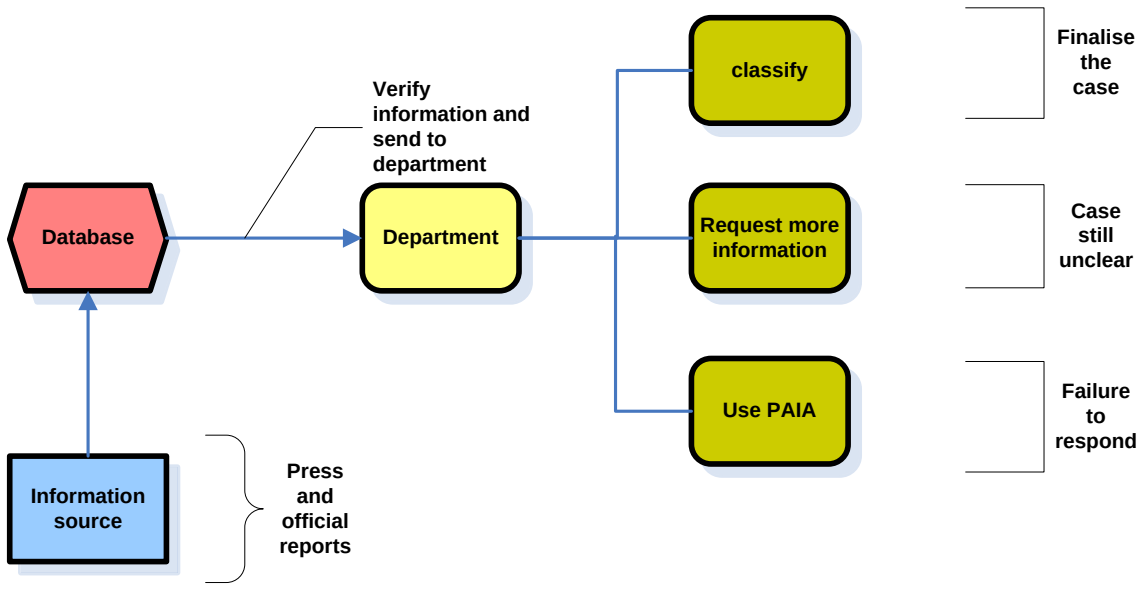
PSAM established the web-based case monitoring project in 2002 (Hollands, 2007). The objective of this project is to establish and maintain a database of cases of misconduct, conflicts of interest, corruption and maladministration in the government of the Eastern Cape. This project follows a succinct process as illustrated in Figure 4-3 below.

The process starts with the identification of reported cases of corruption. This activity is done through constant monitoring of the press and official documents such as Auditor-General’s reports, minutes of the meetings of oversight committee and the annual reports of provincial departments. When a case is identified, an effort is made to establish whether there has been any reported

corrective action in each case. The cases are then compiled into lists and sent to the heads of the responsible departments along with a request for details of the corrective action taken in the case. This gives the departments the opportunity to demonstrate how well they are performing in respect of their handling of disciplinary cases and to inform the public of their efforts to re-train and build the capacity of their staff in instances where problems have been reported.

These cases are continuously updated in the light of new information brought to the attention of the PSAM. In the event of a non-response from any government department or other official information source the PSAM requests this information in terms of the Promotion of Access to Information Act (Act No. 2 of 2000).

**Figure 4-6: Process to monitor cases reported in the media**




This project aims to hold the executive and relevant government departments accountable for the prompt investigation and initiation of disciplinary or criminal proceedings and recovery of public funds in (Eastern Cape and selected

national) cases of misconduct, corruption and maladministration. It also seeks to ensure that legislature oversight committees and constitutional bodies are informed of all such cases and the corrective steps taken; and to encourage these committees and bodies to ensure that government departments take steps to resolve these cases. It serves to raise awareness among civil society organisations (CSOs) and the general public of the negative impact of corruption and maladministration on public service delivery and on the realisation of socio-economic rights.

### 4.5.2 Performance Monitoring

The performance monitoring project is conducted in the same manner as the case monitoring project. PSAM gathers information from various sources and then creates a database that showcase the performance of various departments in the Eastern Cape (Karmayog, 2008). Sources of information include budget documents, policy speeches, strategic plans, operational plans, and annual reports. Additional information is also obtained from the reports of oversight bodies such as the Auditor-General and the minutes of parliamentary committee meetings.

PSAM takes a very meticulous approach in monitoring performance of departments. Researchers are deployed to extract data from various documents. Once information is obtained, researchers conduct a review of all problems that departments are experiencing regarding the implementation of their operational and strategic plans (Karmayog, 2008). They also make follow up on any recommendations made by oversight bodies to address and resolve these problems. PSAM does this to establish whether these recommendations are implemented by departments. Moreover, PSAM keeps records of all promises and commitments made by government ministers and departmental officials in respect of service delivery in order to establish that they are fulfilled (Karmayog,

2008). PSAM compiles this information in a manner that makes it easier for ordinary citizens and parliamentarians to access it (Karmayog, 2008).

### 4.5.3 Research surveys

From time to time PSAM conducts various studies to assess the problem of corruption in the Eastern Cape government. The most notable survey was conducted between March and April 2001 and released in 2002 (Hakobyan & Wolkers, 2004)). The survey was conducted with 2, 008 officials in Bisho. The purpose of this survey was to assess government official's knowledge of regulations and codes of conduct and attitudes toward transparency and accountability in the Eastern Cape government. Compliance with regulatory measures remains a serious challenge across all government departments in South Africa.

The survey also assessed officials' experiences and perceptions of corruption in the province. PSAM published the findings of this survey in the form of a booklet titled "Government corruption seen from the inside: A survey of public officials' perceptions of corruption in the Eastern Cape".[19] The Survey found that:

- 48% of officials believed that it was wrong but understandable to receive gifts in return for something that is part of their job;
- 14% reported seeing someone trying to bribe a colleague and 12 % reported seeing that colleague accept the bribe;
- 27% reported witnessing political patronage (awarding jobs or contracts to political allies);
- 33% felt they witnessed nepotism (awarding jobs or contracts to relatives);
- 23% said that 'all' or 'most' of their fellow government officials in the province were involved in corruption; and

[19] Allan, C, B Mattes, U Millie. (2002). *Government Corruption seen from the inside – A Survey of Public Officials' Perceptions of Corruption in the Eastern Cape*. PSAM Research Series No.1. PSAM.

- 41% expressed the fear that syndicates would intimidate them if they reported corruption.

The survey also revealed some weaknesses in the provincial anti-corruption strategy (Cwati, 2004).

### 4.5.4 Civic Empowerment Project

This primary objective of this project is to advise citizens on their rights, as well as on the responsibilities of public officials (Karmayog, 2008). In this project, PSAM tackles the issue of corruption using the human rights approach. This was evident in 2003 when this CSO made a contribution towards the formation of the Eastern Cape Human Rights Working Group. This group was formed to coordinate strategies for monitoring the delivery of public services and the realisation of socio-economic rights in the province. PSAM convenes and chairs quarterly meetings of this group. The most notable output of this project is a booklet known as “Know Your Rights/*Wazi Amalungelo Akho*”, which provides advice on a range of rights and public services (Karmayog, 2008).

Recently the project has embarked on the monitoring of quality of service delivery at social grant pay-points in the Eastern Cape. According to Karmayog (2008) PSAM has through this project inspected more than 40 pay-points in which over 600 grant beneficiaries were interviewed. PSAM uses information obtained from these interviews to advise the Eastern Cape Department of Social Development on service delivery problems encountered by beneficiaries.

### 4.5.5 Advocacy and Communications Project

PSAM launched the advocacy and communications project in late 2003 (Karmayog, 2008). The purpose of the project is to inform the public of the level

of ethical conduct of government officials, the performance of government departments in the management of public resources and delivery of public services. The key activities of this project include regular press releases, opinion and analysis pieces in the media and regular press and radio interviews. The project has obtained a column, called the Accountability Monitor on the *Daily Dispatch* newspaper where is provides information on the responsibilities of the officials in the Eastern Cape government and the performance of departments in combating corruption and maladministration. Instead of producing its own newspaper like the ISS, PSAM is using a well-established medium, which has a wide readership in the province. In this way, PSAM is able to reach a lot of people in the province. Moreover, working with the *Daily Dispatch* newspaper PSAM is building an important partnership that is essential for an effective advocacy campaign.

## 4.6 The Institute for Security Studies

The Institute for Security Studies (ISS) is a regional policy research organisation based in South Africa but operating across sub-Saharan Africa (Institute for Security Studies, 2008). The work of the ISS revolves around human security with specific focus on human rights, good governance, personal and community security (crime), justice, refugee movements and internal displacement, food security and sustainable livelihoods. Flowing from these areas, the ISS research agenda seeks to address issues of crime and justice, gender, human trafficking, parliamentary oversight, population movements, governance and corruption, conflict analysis, conflict prevention, post-conflict transformation, and human rights and peace-keeping matters.

Like Idasa and ODAC, the ISS receives substantial funding from donor agencies and various South African institutions. Its head office is in Pretoria. It has other four offices based in Pretoria, Cape Town, Addis Ababa and Nairobi. The ISS runs a total of 14 programmes managed at these offices. The ISS is probably the

largest NGO of all the organisations that are involved in the fight against corruption.

The anti-corruption work of the ISS is done by the Corruption and Governance Programme in Cape Town (Hennie Van Vuuren, June 2008). The Corruption and Governance Programme was established in January 2006 (Institute for Security Studies, 2006). The Programme provides an independent monitoring and assessment of corruption in both the public and private sectors (Institute for Security Studies, 2007). According to Hennie van Vuuren, the Programme runs eight projects, namely; implementation of anti-corruption conventions in Africa, governance of natural resources, corruption in marine fisheries, climate change, and corruption in healthcare, corruption in service delivery, party political funding and conflicts of interest of elected office bearers.

The ISS produces a number of occasional papers and monographs, containing research and policy information in the area of corruption (Institute for Security Studies, 2007). Usually ISS hosts seminars and conferences to discuss policy issues and the findings of research. The ISS research work is complemented by three major electronic outputs, namely; Information Portal on Corruption in Africa, the party funding monitor and the newsletter, *Umqol' Uphandle* - SA Corruption Briefing.

### 4.6.1 Information Portal on Corruption in Africa

The ISS launched the information portal on corruption (IPOC) in Africa in 2005 (Institute for Security Studies, 2006). During its nascent stage, the portal was simply called the Southern African Information Portal on Corruption. This initiative has since matured quite significantly and has seen several facelifts. It has become a flagship online resource centre that hosts a number of databases, project updates and links to relevant information. Most information about corruption in southern Africa can be sourced from this online resource centre.

IPOC is comparable to internationally reputable anti-corruption portals and websites hosted by various international NGOs and intergovernmental organisations such as the U4 Resource, World Bank Institute, Transparency International, Global Advice Network and the United Nations Commission for Africa (UNECA). However, it is one of the few regional portals hosted by a civil society organisation. It covers countries in the SADC region such as Zimbabwe, South Africa, Tanzania, Angola, Botswana, Lesotho, Malawi, Mozambique, Zambia, Swaziland and Mauritius.

**Table 4-3: Anti-corruption portals**

| Portal | Host | Type of organisation |
|---|---|---|
| Information Portal on Corruption in Africa | Institute for Security Studies | Regional CSO |
| Business Anti-corruption Portal | Global Advice Network | Private consultancy company |
| Anti-corruption in Africa | United Nations Commission for Africa | Regional Commission of the United Nations |
| Anti-corruption Portal of the Americas | Organisations of American States | Regional inter-governmental organisation |

Although IPOC is not the only web-based tool of this kind, it contains unique features that are uncommon. These features include:

### a) A database of politicians' assets and interests

This database known as "who owns what" provides searches for the disclosure records of elected officials at three spheres of government. It is hailed as:

*"The first comprehensive database of its kind in Africa, and one of few in the world"*[20]

[20] "New Database of MPs interests" by Marlene Neethling published in Die Burger, 23 September 2009

This facility allows one to enter a representative surname in order to access information relating to the politician's assets and interests. The search may lead to a complete disclosure form of a politician. About 6000 declaration forms were collected by ISS between 2004 and 2008 (Neethling, September 2009).

**b) Publication database**

This facility contains academic and newspaper articles, various research reports and legal documents such as pieces of legislation. All ISS anti-corruption publications such as monographs, books, occasional papers, research papers, journals and the ISS electronic newspaper can be found in this database.

**c) Case studies**

This facility contains information the key corruption cases in Southern Africa. These cases include the Lesotho Highlands Water Project, the Carlos Cardoso Case Study, the Arms deal and country cases studies on asset recovery. The case studies are provided with background information and supporting documents such as related articles and litigation cases.

**d) ISS projects**

This facility provides a list of all projects that are currently conducted by ISS. The list is provided with some background information and the names and contact details of relevant project leaders.

### 4.6.2 The party funding monitor

The Party funding monitor is a joint initiative of the ISS and Idasa. This web-based project is aimed at supporting the party-political funding campaign spearheaded by Idasa. Its primary aim is to inform and support the debate surrounding the need for regulation of political party funding. This project targets researchers, academics, journalists and policymakers who are interested in the link between money and politics in South Africa. According to Hennie van Vuuren[21], ISS uses these kinds of resources as accountability mechanism:

*"We also need to hold government to account"*.

The party funding monitor is conducted through the website, www.whofundswho.org. The website contains a database of news articles on the major political parties in South Africa. The monitor consists of a list of ten political parties. If a mouse is placed over a party and clicked, a whole database of news articles appears relating to the political party selected. The website also consists of various publications such as conference, concepts and occasional papers. There are also annual reports of the Impendent Electoral Commission (IEC) and copies of all international and South African anti-corruption legislation. The ISS and Idasa conducted five workshops around the country to promote this website.

### 4.6.3 *Umqol' Uphandle* - SA Corruption Briefing

The ISS boasts a wide range of publications which include books, journals, monographs and newsletters. *Umqol' Uphandle* - SA Corruption Briefing is one of the five electronic newsletters of the ISS. It is published by the Corruption and Governance Programme on a monthly basis. As shown in Table 4.2 below, it is one of the four e-newsletters in the field of anti-corruption in South Africa. The

[21] Interview with Hennie Van Vuuren

other similar newsletters are Business Ethics Direct, Legalbrief Forensic and *Mwalimu*.

The ISS uses *Umqol' Uphandle* to document and inform citizens on instances of corruption in South Africa. It is a tool that is used to inform public discourse and debates on corruption. Unlike the Business Ethics Direct and Legalbrief Forensic which only provides a snapshot of recent corruption related stories published in media, *Umqol' Uphandle* highlights the results of relevant research and initiatives to combat corruption in addition to covering stories that have appeared in the media. ISS also uses this newsletter to inform public debate and policymaking:

*"Our primary focus is on influencing decision-making and policy process"*[22]

**Table 4-4: Anti-corruption electronic newsletters**

| Newsletter | Subscription fee | Frequency of publication | Publisher |
|---|---|---|---|
| *Umqol' Uphandle* | No | Monthly | ISS |
| *Mwalimu* | No | Quarterly | Transparency South Africa |
| Legalbrief Forensic | Yes | Weekly | Juta and Company Ltd |
| Business Ethics Direct | Yes | Bi-weekly | EthicsSA |

This electronic newsletter is available at no cost. Access to it is mainly via the ISS website. However, subscription can be made wherein a copy could be sent to subscribers via email. The production of *Umqol' Uphandle* is made possible through the funding obtained from Norwegian Development Agency and Danish Development Agency.

[22] Interview with Hennie Van Vuuren

Although this newsletter is not necessarily unique, it is the best of this kind. Recently, the publication of *Umqol' Uphandle* has become completely dormant. It is not known what has stopped the publication of this initiative given the fact that ISS has resources to do it.

### 4.6.4 Apartheid Grand Corruption Report

On 22 March 2005, the NACF hosted the 2nd National Anti-corruption Summit in Pretoria. The Summit adopted 27 resolutions. One of these resolutions required civil society to prepare a research report on crimes of corruption under apartheid regime:

> *"Civil Society will prepare a research report on crimes of corruption under apartheid and present these to the National Anti-Corruption Forum (NACF) for consideration within six months."*[23]

Following the adoption of the Summit resolutions by the NACF, the ISS obtained funding from the Open Society foundation for South Africa to conduct a research report on apartheid grand corruption. A reference team that consists of the Centre for the Study of violence and Reconciliation, COSATU, Idasa, NRLF, ODAC, Sangoco and Transparency South Africa was constituted to support and advise the research process.

The ISS prepared a report on behalf of civil society within six months and presented it to the NACF in November 2005. The research covered the period 1976–1994 (Van Vuuren, 2006). The research focused on large-scale corruption involving members of the public and private sectors. Special attention was directed to money that may have been illegally taken out of South Africa and placed in foreign banks or invested in real estate.

[23] Resolution D7 of the Second National Anti-Corruption Summit 23 March 2005

This report obtained a lot of publicity mainly in the media. There were lots of articles written about it in local newspapers. This report definitely created a lot of awareness and public debate on issues of corruption in the country. According to Hennie van Vuuren:

> *"The Apartheid Grand Corruption report got people talking."*[24]

However, this report was marred by some controversies prior to its formal adoption and release. Before the report was released, its contents were divulged to the media and this infuriated some other sectors of the NACF. The business sector specifically expressed their dismay with the leak:

> *"The leaking of the report is regarded as an irresponsible act that constitutes a breach of trust that could jeopardise the effective functioning of the NACF".*[25]

Although there was sustained media coverage on this report, the NACF never accepted the report as its own product. The report was generally known as the civil society report. Over the time, it became known as the ISS report mainly because it was authored by the ISS.

## 4.7 The National Religious Leaders Forum

The debate on the role of religion in public policy is quite intriguing. Generally, the role of religion in public life is always contested (Cochrane, 1999). Some religious scholars such as Omar (undated) ponder if public policy needs religion. If one acknowledges that in most cases, public policy is aimed at responding to social problems, then the question about the relationship between religion and

[24] Interview with Hennie van Vuuren
[25] NACF meeting minutes, 20 April 2006.

public policy becomes critically important. National Religious Leaders Forum believes that religious organisations are custodians of morality:

> "*All of crimes are based on morally unacceptable behaviour. Religion needs to give moral guidance*"[26]

Morality becomes an issue when religion views the world to be surrounded by social problems. It is also true that social problems often involve disagreements (Loseke, 2003). Corruption is of course a social problem. The social effects of corruption are now clichéd. Most religious organisations see corruption as a manifestation of moral crisis. Reverend Richard Menatsi[27] agrees that religious people view corruption as a form of sin (National Anti-corruption Forum, 2006).

The government of South Africa has always acknowledged that religion has a responsibility to infuse morality in the social fibre of society. In 1997, former President Mandela called upon all religious groups to have their leaders constitute a forum, which would work towards improving the moral climate of society (Camerer, 2009; Just, 2005; Rauch, 2005). The call was essentially about cooperation between religions and the state. The forum was established and became known as the National Religious Leaders Forum (NRLF).

Unlike Idasa and ISS, the NRLF does not enjoy any substantial funding. Peter Just maintains that individual religions foot their own bill to fund the activities of the NRLF. This religious body consists of major faiths and religions practised in South Africa (National Anti-Corruption Forum, 2008; Just, 2005; Van Vuuren, 2005; Van Vuuren, 2003; Department of Public Service and Administration, 2003). The faiths and religions that form the NRLF include the Baha'i, Buddhism, Christianity, Islam, Judaism and Hinduism (Sangweni & Balia, 1999). The work of

[26] Interview with NRLF representative in the NACF, Mr Peter Just on 24 June 2008.
[27] Rev Menatsi presented a paper on ethics and prevention at the 2nd National Anti-corruption Summit in Pretoria on 22-23 March 2005.

NRLF is centred on two major documents, the Ubuntu Pledge and Bill of Responsibilities.

### 4.7.1 Ubuntu Pledge

*Ubuntu* is an African concept of humanity towards others (Forster, 2006)[28]. It is a concept with strong religious connotation. In May 1998, NRLF produced a document called Ubuntu Pledge. According to Tshelane (2003), Ubuntu Pledge embodies aspirations for a better South Africa. He argues that 13 major religions in South Africa and worldwide attribute the origin of this initiative to the environment of moral breakdown in South Africa. NRLF concurs that Ubuntu Pledge was developed to bring about change in society:

> *"It was something worthwhile, which is African. Something to bring about change in society"*[29]

The Ubuntu Pledge was never adopted as a national policy. The document was released in seven official languages of South Africa. Although copies were printed and distributed at some major events around the country, thousands of undistributed copies could still be found in one church in Johannesburg[30]. The NRLF met with both government and business in the attempt to get Ubuntu Pledge distributed widely. In October 1998, the Pledge was accepted at the Moral Summit.

### 4.7.2 Bill of responsibilities

The argument that religious organisations are custodians of morality is located within a particular philosophy. As NRLF indicates, certain religious groups

[28] Validation of individual consciousness in Strong Artificial Intelligence: An African Theological contribution. Unpublished Doctoral thesis. (doctor of theology)
[29] Interview with Peter Just
[30] Ibid

believe that they have the responsibility to prescribe morality to society. Recently, South African schools have been besieged with a number of social problems. These problems propelled the NACF to commission a study on ethics in education. Professor Jonathan Jansen[31] observes that these problems are a reflection of the state of ethics and values of society rather than a shortcoming in curriculum (National Anti-Corruption Forum, 2008b). He argues quite vehemently that children learn about ethics and values by observing adult behaviour.

In February 2008, the Minister of Education launched a Bill of Responsibilities. The Bill was largely drawn up by the NRLF. According to Just, the NRLF was asked by President Thabo Mbeki to develop the Bill. NRLF developed the Bill and saw the Department of Education as place where the Bill could be used. The Bill outlines responsibilities that flow from each of the rights in the South African Constitution. The Bill is not a legal document but is intended to be taught to children as part of the life skills curriculum to improve the moral values of young South Africans.

## 4.8 The Moral Regeneration Movement

The creation of the Moral Regeneration Movement (MRM) can be traced back to a meeting between former President Mandela and key South African religious leaders in June 1997, which also saw the formation of the NRLF. While the NRLF was initiated some few months after the meeting, the formation of the MRM had to wait for a number of events, including the Moral Summit which took place in Johannesburg in October 1998 (Camerer, 2009; Rauch, 2005). At the Moral Summit, President Mandela stressed that:

> *"The symptoms of our spiritual malaise are only too familiar. They include the extent of corruption both in public and private sector,*

[31] Prof Jansen delivered a scene setting speech at the launch of the NACF Report on Ethics in Education at the 3rd National Anti-corruption Summit held in Boksburg on 02-03 August 2008.

*where office and positions of responsibility are treated as opportunities for self-enrichment. …"*[32]

The moral regeneration campaign was launched in June 2000 through a series of workshops. Rauch (2005) argues that the MRM was only described as a movement in early 2001 when the discourse around the moral regeneration campaign changed to make it more attractive to former activists and supporters of the anti-apartheid movement. The intention was to make the MRM a broad coalition of individuals and organisations in civil society. This initiative was driven largely by the ANC and government to mainly deal with crime and corruption in South Africa. International media defined this initiative as South Africa's:

*"Nationwide crusade to build up its citizenry's moral fiber"*[33]

In April 2002, the MRM was formerly launched in Pretoria as a non-profit organisation (Rauch, 2005). Although the MRM became an NGO that was handed to civil society, it maintained its funding from government. The Department of Arts and Culture administers government grants to MRM. It is this involvement of government within the MRM that propels Rauch (2005) to describe MRM as a quasi-NGO. Following the launch, MRM Committees were established in all provinces and some municipalities. Unlike the NRLF which sees religion as the custodian of morality, MRM on the other side sees government as the overarching custodian of the nation's morality (Swartz, 2006). It emphatically asserts that:

*"The government is morally obliged to ensure that they do not inadvertently promote behaviour that is incompatible with the agreed upon moral values of society"*

[32] Rauch (2005)
[33] Rena Singer, Christian Science Monitor; 11/10/2000, Vol. 92 Issue 246, p6, 0p

Government has always been very instrumental in the activities relating to the development of the MRM. In addition to the involvement of the Department of Arts and Culture, the Office of the Deputy President has always been at the forefront of the moral regeneration campaign. During his reign as the Deputy President of the South Africa, Jacob Zuma often reported to Parliament on the work of the MRM. The MRM struggled for sometime to maintain its independence from government. The period that followed the official launch saw a number of workshops and consultations to re-invigorate the moral regeneration campaign (Rauch, 2005). This era was characterised by the formation of various internal structures to bolster the efforts to redirect the activities of the campaign.

### 4.8.1 The Draft Charter of Positive Values

The development of the Charter of Positive Values was announced by Jacob Zuma at the end of 2002 (Rauch, 2005). Since then, the MRM has been working on this initiative. MRM appointed an expert group to draft the Charter at the end of 2004. The Charter is intended to constitute a framework of ethical and moral reference for all South Africans[34]. The primary objective of this Charter is to define the vision and create a foundation and commitment for a united action towards building a moral society (Rauch, 2005). The draft charter outlines nine moral values that draw heavily from the Constitution. The values describe the commitment to respecting human dignity and equality; promoting responsible freedom, the rule of law and democracy; improving material well-being and economic justice; enhancing family and community values; upholding, honesty integrity and loyalty; ensuring harmony in culture, belief and conscience; showing respect and concern for all people; striving for justice, fairness and peaceful co-existence and protecting the environment.

[34] Briefing to the portfolio committee: Arts and Culture in parliament by MRM Board of Directors, 24 August 2005.

At least three of these values deal broadly with issues of corruption. In terms of the value to promote responsible freedom, the rule of law and democracy, the MRM commits South Africans to fight against all forms of crime, corruption and violence. Moreover, this value expresses the desire to promote a sense of social responsibility by respecting the rule of law, honesty, hard work and standards of ethical decency. The value to improve material wellbeing and economic justice is even more explicit about anti-corruption. In terms of this value, the MRM commit South Africans to overcome corruption, whether driven by personal gain, dishonesty, favouritism, nepotism or other motivations; oppose greed, selfishness and undue self-enrichment at all times; and foster transparency in government through timely, accessible and accurate information on all matters affecting public life. Lastly, the value to uphold honesty, integrity and loyalty commit MRM to use the judicial system to punish all forms of theft, extortion, bribery, dishonesty and exploitation.

It is almost five years since the first draft of the charter was developed and no finality on this matter has been made. Consultation workshops have been conducted in provinces and the MRM still has to agree on the content. During the briefing to the portfolio committee on arts and culture, the MRM Board of Directors promised that Charter would be adopted around October/November 2005. At the National MRM Conference, the CEO of MRM, Zandile Mdhladhla told participants that the charter has been distributed and also uploaded on the MRM website. Instead of committing to the adoption and launch of the charter, she urged participants to contribute towards the distribution and publication of the charter.

The NRLF does not see any difference between the Bill of Responsibilities and the draft charter of positive values. Peter Just doubts the value of having the two instruments:

*"There is question why two bodies are working on the same matter[35]".*

It is interesting that government worked with both the NRLF and the MRM in developing these documents. While the NRLF has been successful in launching their document, it is still not clear when the MRM will launch theirs.

## 4.9 South African NGO Coalition

The South African NGO Coalition (SANGOCO) is the largest umbrella body for NGOs in South Africa (National Anti-Corruption Forum, 2008). It has over 2000 registered members.

As much as civil society is concerned about eradicating corruption from other sectors of society and in other elements of the national integrity system, there has to be a focus on civil society itself. There is general acknowledgement that civil society is not immune from corrupt practices. Corruption in civil society includes mismanagement of funds and other assets of an organisation; harassment of whistleblowers; lack of accountability to stakeholders; and donors abusing power of money by interfering unduly in the management and agenda of an organisation (Van der Merwe, 1999).

SANGOCO adopted a Code of Ethics for civil society at the 1997 NGO week. The Code covers the following broad issues:

- Values;
- Governance;
- Accountability;
- Management and human resources; and
- Resources

[35] Interview with Peter Just

SANGOCO conducted workshops with NGOs to familiarise them with the Code. However, SANGOCO admits that very few organisations comply with the Code.

*"There is a code of ethics in our website but who reads it*[36]*"*

## 4.10 Transparency South Africa

A Washington based Global Integrity, in its South Africa corruption timeline, identifies three significant events that took place in 1997, namely; the appointment of Judge Willem Heath by former President Mandela to head the Special Investigating Unit; the introduction of the Code of Conduct for the Public Service, and the appointment of an inter-departmental cabinet committee to consider proposals for a national anti-corruption campaign. The timeline omits to mention the launch of Transparency South Africa (T-SA), a national chapter of Transparency International, as a notable development in the country's anti-corruption history. T-SA was launched in South Africa in June 1997 (Sangweni & Balia, 1999).

TSA is committed to address corruption and good governance in society. It is affiliated to Transparency International. As part of an international movement against corruption, TSA commits itself to combating corruption in the public and private sectors as well as in civil society through networks of integrity.

Hollands (2007) states quite unambiguously that T-SA has a low public profile. This is true if one considers that this NGO is actually linked to the illustrious and internationally acclaimed Transparency International. It is the only NGO that was established solely to fight corruption (Van Vuuren, 2003). Since its formation, the organisation has had at least five chairpersons at its helm. Just like ODAC which has a strong affinity with Idasa, T-SA has a strong link with SANGOCO. Both organisations were operating from the same premises for a very long period.

[36] Interview with Jacob Molapis held on 25 August 2008

### 4.10.1 Civil Society Anti-Corruption Summit

In 2001, T-SA started with holding provincial workshops with the intention to identify areas in which civil society could make a valuable contribution in combating corruption. The workshops culminated in a Civil Society Anti-Corruption Summit, which took place in February 2002[37]. The Summit brought together different CSOs which were all concerned about issues of corruption in the country.

About 200 participants attended the Summit. At the end of the Summit, a declaration was adopted by all participants. The declaration states upfront that corruption exists in all sectors of society. This document consists of 188 recommendations, which were grouped under various topics such as economic policy and the budget; financial sector; land and housing sector; gender and women sectors; human rights and public institutions; local government; rural sector; education sector; the media; strategies to combat corruption; and resources required to implement strategies.

The declaration is described by others as a confused document because it covers other issues as well. This description may not necessarily tell the whole truth. If looked closely, the declaration covers issues of corruption in all spheres of society. Participants seem to have done this deliberately to ensure that all NGOs and CBOs could be committed to take part in the fight against corruption. This intention is even clearer if one looks at the last matter that deals with resources required to implement strategies. Only three organisations, namely T-SA, SANGOCO and PSAM are committed to address the recommendations under this topic. It is however true that less was actually done to implement the

[37] Civil Society Anti-Corruption Report – Presentation made by Hennie van Vuuren to the Portfolio Committee on Public Service and Administration, 26 March 2003.

declaration. T-SA attempts to include the recommendations of the declaration for implementation in its programme of action of 2006/7.

### 4.10.2 *Mwalimu* – T-SA e newsletter

In 2008, T-SA launched an electronic newsletter, *Mwalimu*, named after the former President of Tanzania Julius Nyerere. *Mwalimu* is the sole effort of Hassen Lorgat who is described by the publication as the coordinator and contributor. The publication is accessible through the website of T-SA. It covers various topics such as anti-corruption events in South Africa, interviews with leaders of anti-corruption organisations. It is different from the other anti-corruption e-newsletters in South Africa in the sense that it does not provide a compilation of newspaper reports on corruption.

## 4.11 Conclusion

There is substantial evidence as seen from the discussion in this chapter that civil society, through individual CSOs, is quite involved in the fight against corruption. Civil society like any other sector of society is concerned about the detrimental effects of corruption. However, there is uneven contribution to the fight against corruption. There are still some challenges that civil society needs to work on in order to enhance its role in the fight against corruption.

Civil society organisations rarely work together in a very cohesive manner. There are only a few instances where some of these organisations worked together on a campaign. The party-political funding campaign brought together various CSOs to challenge the state and political parties to introduce legislation to deal with private funding of political parties. This campaign attracted the attention of organisations such as the South African Catholics Bishops Conference and the

South African Council of Churches, which are not primarily working on anti-corruption issues.

The Apartheid Grand Corruption Report is also another example in which a group of CSOs collaborated with each other. The Centre for Study of Violence and Reconciliation (CSVR) joined the ISS, Idasa, ODAC and NRLF to produce a very powerful report. This cooperation promotes a sharing of expertise and experiences which can only benefit the fight against corruption in South Africa.

Only three CSOs, Idasa, ISS and ODAC, are consistently collaborating with each other to support the fight against corruption. Interestingly, these organisations run their anti-corruption programmes from Cape Town. Both the ISS and Idasa are together involved in the running of the party funding monitor. This relationship is not seen with faith-based organisations such as the MRM and NRLF. In fact, although the two organisations run some similar initiatives, there is little cooperation between them. Ironically, these two organisations do receive substantial funding as compared to the Cape Town based organisations.

Both Sangoco and T-SA lack the prominence and the credibility enjoyed by Idasa, ODAC and the ISS. The anti-corruption work of T-SA is disappointing given the fact that this organisation has links with the prestigious Transparency International. The anti-corruption programmes of these two organisations were at one stage run by one person supported by an intern.

There is also some kind of duplication of efforts between the CSOs. The ISS is running a successful e-newspaper and there is no need for T-SA to introduce another newsletter. The same situation is observed with NRLF's Bill of responsibilities and MRM's Charter of Positive values. These initiatives are closely related and it would be proper if organisation could instead work on one initiative together

# CHAPTER 5

# THE DISCURSIVE DIMENSION OF ANTI-CORRUPTION POLITICS

## 5.1 Introduction

Policy is about politics. It is common knowledge that politics involves a lot of power struggle. Whoever has power gets to determine the course of policy and the ultimate outputs. Fisher (2003) describes politics as “a struggle for power played out in significant part through arguments about the best story”. This study would not be able to determine the role of civil society without examining the extent to which civil society shape and influence anti-corruption policy. For post-empiricists, discursive features are essential attributes of policy domains. Any power struggle manifests itself in the dominant discourse. Therefore every site of discourse is riddled with politics.

Corruption is a fairly new issue of interest for civil society. Most civil society organisations began to take keen interest on this issue only a few years ago. In the last Chapter, I provided some solid examples of various initiatives implemented by civil society to prevent and combat corruption in all sectors of society. The kind of truth presented up to so far does not provide sufficient answer to the key question of this study. The objective of this study was never about pointing out the examples of anti-corruption practices of CSOs and claim that such practices demonstrate that civil society is (or not) playing a meaningful role in the fight against corruption.

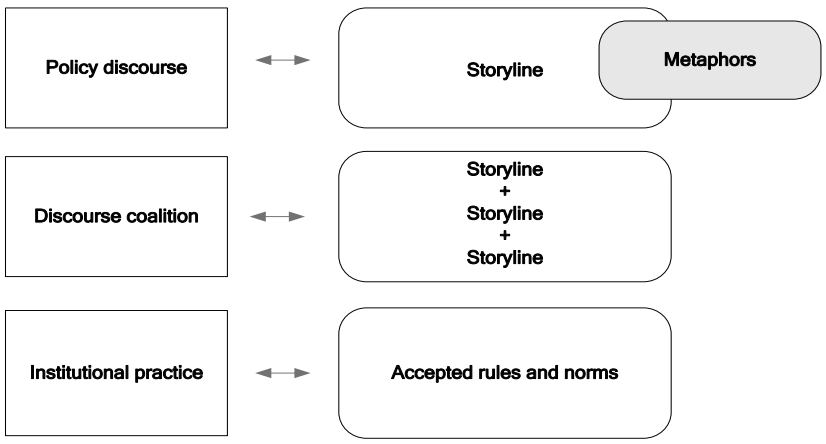
To declare that civil society is playing a significant role in the fight against corruption, two things are necessary. Firstly, one has to determine if most people

use a particular discourse to conceptualise the world. This phenomenon is known as discourse structuration. Secondly, one has to determine if the discourse manages to solidify into policy, institutions and organisational practices, and this phenomenon is known as discourse institutionalisation. Using Hajerian discourse analysis, this Chapter presents some empirical findings on the role of civil society in shaping and influencing anti-corruption discourse.

## 5.2 Key elements of discourse analysis

Hajerian discourse analysis has a particular focus on institutional practice within which discourse is produced. This approach uses a discursive dimension of policy analysis as a framework for analysing discourses as data. In terms of this framework, there are three distinct elements of discourse analysis as illustrated in Figure 5.1 below. These elements are: policy discourse, discourse coalition and institutional practice.

**Figure 5-1: Distinct elements of discourse analysis**



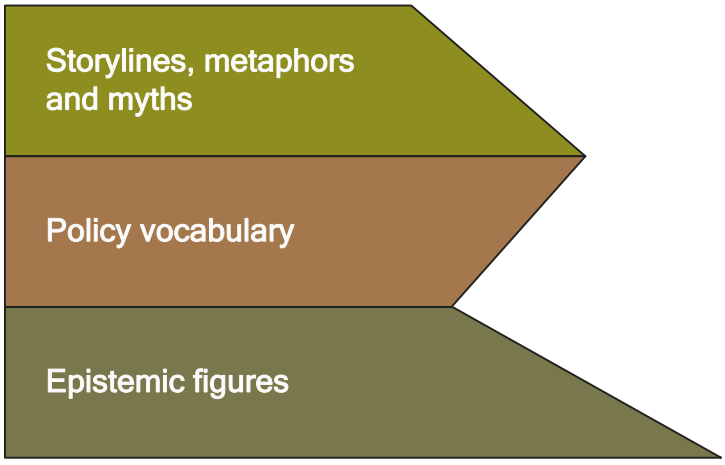

Policy discourse refers to the manner in which biases are structured in textual utterances (Hajer, 2003). It is made up of storylines and metaphors employed by

policy actors. Storylines often contains metaphors, which are linguistic devices that use comparison to convey understanding.

When a group of policy actors begin to share a particular thinking and use a set of storylines in the identifiable set of practices over a period of time, this whole phenomenon becomes known as discourse coalition (Hajer, 2005b; Hajer, 2004, Fisher, 2003). If politics is about power, then the analysis should be able to demonstrate a link between discourse and power.

A dominant discourse is revealed when more people use it to conceptualise the world and ultimately when it solidifies into institutional practices. The practice is characterised by commonly understood rules and norms that bring coherence to social life. According to Hajer (2003), myth serves to bring coherence by explaining why things cohere. Hajer distinguishes two kinds of myths, namely dystopian myth and constitutive myth.

**Figure 5-2: Layers of policy discourse**




Source: Adapted from Hajer (2003)

Constitutive myth brings about coherence by narrating a foundational event (Hajer, 2003). It is a type of myth in which a storyline is infinitely retold by policy

actors and subsequently causes a cognitive shift. As it is continuously repeated, it brings in a new insight that ultimately leads to a change in institutional practices. Most anti-corruption campaigns and programmes do contain constitutive myths. In the past few years, the United Nations has used the slogan, “Corruption, Your No Counts”, for the celebration of the International Anti-corruption Day. This slogan serves to make people aware that it is possible to stop corruption.

A dystopian myth on the other side, serves to inspire coherence to avoid catastrophe (Hajer, 2003). A typical example will be a storyline that is commonly used in the international anti-corruption discourse, which says that corruption is inimical to development. The function of this storyline is to get the governments to take action to avoid the detrimental effects of corruption. In a dystopian myth, policy actors always have a reason to cohere because they understand the consequences.

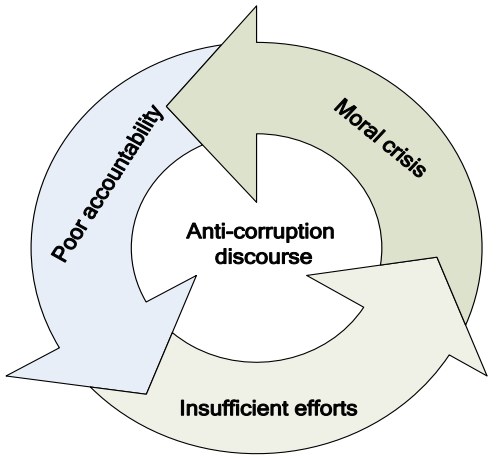
## 5.3 Storylines in the anti-corruption policy discourse

The analysis of anti-corruption as policy discourse reveals three distinct storylines of moral crisis, lack of accountability and insufficient efforts that were more pervasive during the period 1994 to 2007 (see figure 5.3 below). There is a significant overlap between these storylines. In some cases, the storylines ran concurrently for some moments until one took over completely. Figure 5.4 demonstrates the periods in which these storylines were more prominent.

The first storyline of moral crisis is well documented in the political history of South Africa. It is a storyline that sought to solidify the South African democracy. It emerged during the first five years of democracy, when the policy of government was more about reconstructing the nation and infrastructure delivery was seen as necessary for economic development of South Africa. It is not unusual that the metaphor of the RDP of the Soul defined this storyline.

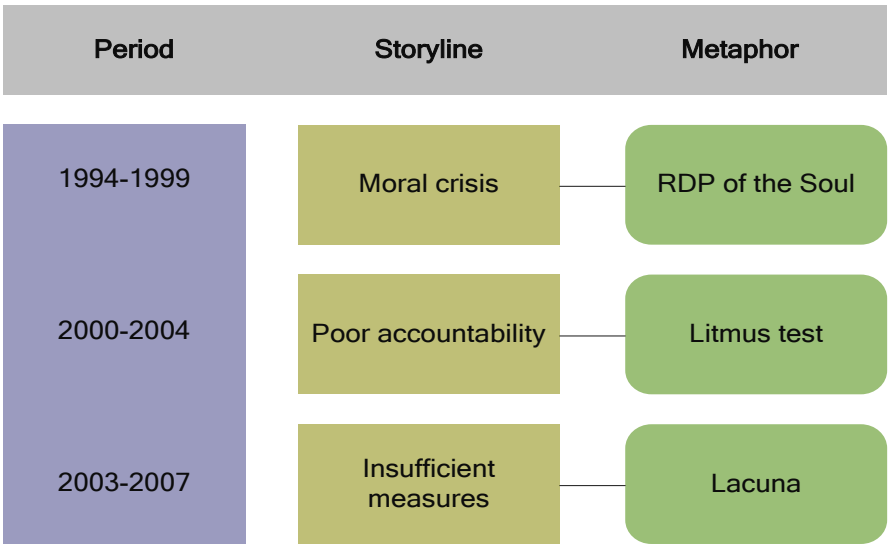
The second storyline is poor accountability, which became prominent in 2000 until 2004. This storyline is influenced primarily by a single event, the arms deal. The arms deal literally brought the euphoria of democracy to an end. Civil society introduced the metaphor of a litmus test to describe the effectiveness of the national integrity system in the country. However, the introduction of this storyline did not end the storyline of moral crisis, which continued at least until 2006 but with less prominence.

**Figure 5-3: Key storylines in the anti-corruption discourse**




Closely linked to the story of the arms deal is the storyline of insufficient efforts. In this storyline, the metaphor of lacuna is used to describe the inadequacy of the anti-corruption policy framework, which is seen to be missing a key element that is necessary for the strengthening of democracy. This storyline is less pervasive as the other storylines. It is included in this study to highlight the trend that civil society is taking in the fight against corruption in South Africa. The metaphor was particularly used to refer to the gap in legislation. This storyline has driven the party political funding campaign and the civil society work around the protection of whistleblowers.

**Figure 5-4: The emergence of storylines and their metaphors**




### 5.3.1 Moral crisis

The anti-corruption discourse in South Africa emerged in the early days of democracy. In terms of the findings of this study, the discourse has its origin from the discussions and deliberations initiated mainly within government. Former President Nelson Mandela is credited for pioneering anti-corruption discourse in South Africa. In a meeting with religious leaders in June 1997, Mandela called upon religious leaders to discuss the "root cause of the moral breakdown in the country" (Sangweni, 2001, p. 27).

He described the problem of moral decay in post-apartheid South Africa as a spiritual malaise:

> *"Our hopes and dreams, at times, seem to be overcome by cynicism, self-centredness and fear. This spiritual malaise sows itself as a lack of good spirit, as pessimism, or lack of hope and faith. And from it emerge the problems of greed and cruelty, of*

*laziness and egotism, of personal and family failure. It both helps fuel the problems of crime and corruption and hinders our efforts to deal with them"*

From this description, the storyline of moral crisis emerged in the anti-corruption discourse in South Africa. In terms of this storyline, the moral problem of the country was caused by apartheid. Mandela saw apartheid as a nefarious system that robbed many South Africans of their integrity and moral uprightness:

*"…the inhumane system under which we lived so long undermined and eroded respect for one another and for life itself. That apartheid was a sin and encouraged sinful behaviour..."*[38]

The storyline of moral crisis was more prominent in the late 1990s. It is critically important to note that during this period, there were virtually no reported high profile cases of corruption. Instead, crime in general was seen as the major problem faced by the country.

This is a point well acknowledged by Kris Dobie:

*"We are talking about morality and accountability. It's difficult to separate corruption out of this. All of these become part of the debate".*[39]

**a) The metaphor of the "RDP of the Soul"**

The metaphor of the RDP of the Soul gained its prominence after the state of the nation address by former President Nelson Mandela in which he lambasted corrupt practices in government:

[38] Address by Nelson Mandela at the opening of moral summit, 22 October 1998.
[39] Interview,

*"Our nation needs as a matter of urgency …an 'RDP of the Soul'"*[40]

According to Villa-Vicencio (2007), Mandela coined this metaphor to affirm the need for a set of ethical values. In the storyline of moral crisis, this metaphor is used to convey the understanding that the spiritual transformation of society will go side by side with socio-economic transformation:

> *"The economic problem of the poor is the spiritual problem of the rich. To move from the greed of the rich to the need of the poor we must change the system. We need a new spirit - an RDP of the soul".*

The metaphor the RDP of the Soul is derived from the macro-economic policy of the ANC, the Reconstruction and Development Programme (RDP). However, it was used in the storyline of moral crisis as a comparison with the biblical story of the Israelites leaving Egypt, the land of slavery, and moving to Promised Land of Canaan. It is important to note that the RDP was envisioned to achieve sustainable growth, development and build a society that could live a better life[41]. Therefore, the storyline of moral crisis is infused with a strong religious theme. The RDP of the Soul was conceptualised as a spiritual journey that leads to transformation. However, the ANC was very careful not to sell a religious rhetoric to the electorates. The ruling party emphasised that the intention of the RDP of the Soul should extend beyond religious understanding to the secular world:

> *"The RDP of the Soul which moves us from the Liberation to the Transformation of our society is a secular activity of the spirit of ordinary people, not reserved as a religious activity for saints."*[42]

[40] State of the Nation Address to Parliament by President Nelson Mandela, 05 February 1999.
[41] Address by former President Thabo Mbeki, at the Opening of the National Assembly, 25 June 1999.
[42] Thabo Mbeki (2007) The RDP of the Soul: Discussion Paper.

When government intensified the fight against corruption during the second decade of democracy, the metaphor of the RDP of the Soul was used alongside the concept of *ubuntu*. Government argued that *ubuntu* is fundamentally about the soul of a nation[43]. This argument reinforced the link between ubuntu and the RDP of the Soul. It is a moot point that the concept of *ubuntu* has a general appealing to most South Africans. It is a concept that is well understood by majority of people. Not so long the concept was embraced by some faith based organisations. It is not surprising that NRLF chose the name *ubuntu* to describe the pledge it launched in May 1998. The pledge was later described as an embodiment of the aspirations for a better South Africa (Tshelane, 2003). This description supports the argument advanced by government, which characterises *ubuntu* and the RDP of the Soul as two sides of the same coin.

**b) The dystopian myth of moral crisis**

Rauch (2005, p.9) maintains that "politicians, religious leaders and social commentators have all spoken about the breakdown in morality". He argues that all these actors share the same view that moral crisis is evident in post-apartheid South Africa. Imbedded in the storyline of moral crisis is a dystopian myth that attempts to create coherence in understanding the catastrophic effects of the moral crisis caused by apartheid. These effects feature quite ubiquitously in many utterances and speeches in the storyline of moral crisis. The myth gets told and retold by politicians and government officials.

This dystopian myth is summed up in a classical manner by former ANC member of the National Executive Committee, Saki Macozoma, in which he describes the moral crisis as a two headed beast of greed and drunkenness of power[44]. The manner in which the myth is retold, is like all political actors and religious leaders

[43] Phumzile Mlambo-Ngcuka addressed the national imbizo on Ubuntu and Nation Building in South Africa
[44] Mail and Guardian, Macozoma: SA faces beast with two heads, 04 October 2006.

are experiencing the damaging effects of the moral crisis. In addition to the way the myth brought together coalition in sustaining the storyline of moral crisis, it also inspired people to take action to avoid a moral catastrophe. It is for this reason that government spearheaded the moral regeneration campaign.

Although the dystopian myth gained prominence in society, civil society was generally not moved. This was made possible by the fact that government overlooked broader civil society and focused solely on the religious sector for a solution to the catastrophic effects of moral decay. As demonstrated in Chapter 4, government was responsible for the creation of the NRLF and MRM, which both of them later became some essential players in the fight against corruption.

### c) Moral regeneration as a policy vocabulary

After Mandela met with religious leaders in June 1997, the NRLF was formed as the body that would interact with government regularly to contribute towards formulation of a policy to deal with moral crisis. In February 1998, Mandela made a powerful statement in which he introduced a complete new vocabulary in the moral debate:

> *"We must build our nation into a community of citizens who appreciate their civic duty as each one of us improves our well-being. We must be ready to give back to society part of what we gain from it. We need a campaign of moral regeneration. As we reconstruct the material conditions of our existence, we must also change our way of thinking, to respect the value and result of honest work, and to treat each law of the country as our own. This is our call to all South Africans to firm up the moral fibre of our nation".*

The concept of moral regeneration was until then not heard in any debates in the country. Rauch (2005) argues that this concept was used loosely without any concrete ideas on what could be done to rebuild the moral fibre of society. He claims that the ANC was responsible for the formulation of this concept. This claim is supported by Motshekga (2007) who believes that the call for moral regeneration comes from the founding fathers of the ANC who envisioned the state based on *ubuntu* principles and values. Motshega argues that moral regeneration has always been the ANC moral vision but only came to be articulated in this fashion after democracy. To support the metaphor of the RDP of the Soul, both the ANC and government adopted the concept of the moral regeneration, which later became a prominent policy vocabulary.

Moral regeneration is all about moral renewal or revival. However, the ANC and government chose to use the concept moral regeneration instead of moral renewal or revival. The word “regeneration” is the opposite of degeneration, which implies a moral depravation of a nation. There are at least a few related words that could be used to describe a campaign to deal with moral crisis. These words are invariably used in the moral debate as demonstrated in table 5-1 below.

**Table 5-1: Words related to regeneration**

| Word | Meaning | Associated connotation |
|---|---|---|
| Reconstruction | Build again | Physical structure |
| Renewal | Make new again | Metaphysical objects |
| Revival | Bring back to life | Death |
| Restoration | Bring back to original form | Physical structure |

By choosing regeneration, it is clear both the ANC and government wanted to reverse the effects of moral degradation of society. The concept evolved to become a formal government programme in the second term of ANC government. Jacob Zuma, then Deputy President of the South Africa, became the patron of moral regeneration.

### d) Moral regeneration movement as an epistemic figure

When the moral regeneration campaign gained prominence in the country, many observers developed scepticism about it. In 2003, a Member of Parliament Mrs LR Mbuyazi of the Inkatha Freedom asked the Deputy President Jacob Zuma whether South Africa as a nation has made any progress in the quest for moral regeneration over the past year[45]. Rauch (2005) maintains that it was difficult to mobilise a united front against moral degeneration and this caused a lot of debates about moral regeneration campaign.

In early 2001, a shift from a “campaign” to a “movement” emerged. Although Rauch believes that this move was deliberate to create an attractive description of the moral regeneration initiative. It appears that the shift was an unconscious development within government and the ANC brought about by the nostalgic memories of collective activism. Reference to movement as Rauch rightfully points out, is directly linked to the pre-democracy movement era. The move towards the concept of movement was an attempt to bring back the revolutionary spirit that was embedded in mass mobilisation. This shift, if it became successful, had the benefit of sustaining the notion of moral regeneration. It needs to be stated here that the moral regeneration during its nascent stage did not receive support of broader civil society, which in the past was part of the liberation movement.

[45] Question 16 for oral reply in the National Assembly, 21 May 2003

The concept of movement transformed into an epistemic figure. The epistemic notion is evident in the language that was used by the ANC. In its online newspaper, the ANC described the movement as an "assemblage":

> *"This movement should be an assemblage of concerned citizens from government and civil society, seeking to reinvigorate morality in South Africa"*[46]

Assemblage denotes the coming together of people. In the case of a movement, these people have a common objective to revive morality. When MRM was launched, members were always quick to remind people that MRM was not an organisation. They described the MRM as a "centre of collective activism on moral regeneration initiatives"[47]. In South Africa, the concept of movement carries a message of civil society activism. The emergence of moral regeneration movement as an epistemic figure structured the way South Africans conceived the problem of moral crisis.

### 5.3.2 Poor accountability

While government and religious leaders were going about the moral regeneration campaign, some prominent NGOs such as the ISS and Idasa took a keen interest on the activities of both government and Parliament. They listened with keen interest to some of the stories that were coming out of some key events and incidents linked particularly to the executive arm of government. In some cases they showed the willingness to participate in the events that were led by government when invited to do so. One of those events was the first national anti-corruption summit that took place in April 1999. It is generally known that the

[46] ANC Today, Volume 1 No 10.
[47] Presentation to the Portfolio Committee on Arts and culture in Parliament by MRM Board of Directors, 24 August 2005.

aim of the summit was to create a national consensus against corruption through the coordination of sectoral strategies (Dobie & Ramsigh, 2006).

While the participants of the summit were still trying to see what could be done to implement the resolutions of the summit, a dramatic event took place in Parliament on 09 September 1999. Former Pan Africanist Congress MP, Patricia De Lille reported that the arms deal was riddled with corruption and requested government to institute a full investigation (Mangcu, 2008; Camerer, 2009). At that point in time, the country was not expecting to deal with something as mammoth and politically embarrassing as the arms deal. This incident, gave civil society the opportunity to speak out, for the first time, against corruption within government. It looked like civil society was waiting for something like that to happen before they could express the dissatisfaction with government's efforts to curb corruption. This incident gave rise to the storyline of poor accountability.

As stated above, the politics of the anti-apartheid movement, made it really difficult for civil society to criticise a legitimate government. But, as the anti-corruption discourse was steadily permeating every component of society, the relationship between government and civil society became very awkward. This is a point attested by Hennie van Vuuren of ISS when was asked to describe the relationship between his organisation and government:

> *"It's a schizophrenic one! The ISS is having a generally good relationship with government and it's improving. Sometimes it surprises me that it is OK"*[48].

Alison Tilley of ODAC shares the same sentiment as Hennie van Vuuren:

> *"It's a strange relationship"*[49].

[48] Ibid
[49] Ibid

The anti-corruption discourse evolved at a time when the HIV/AIDS debate was reaching its peak and an NGO like the Treatment Action Campaign openly criticised government despite the fact that its leadership possessed some struggle credentials. Although corruption was seen as a problem, HIV/AIDS was seen as a more serious problem faced by the country. Already government had advanced the storyline of moral crisis as an attempt to deal with corruption. Therefore, the storyline of poor accountability was always going to put pressure on government to take a decisive action against any problems raised.

Before the arms deal scandal broke out, the storyline of poor accountability was hardly heard. But following the break out of the story, accountability became a buzzword for civil society. In terms of this storyline, institutions of democracy such as Parliament and the Cabinet do not adequately apply the constitutional principle of accountability. The whole case of the arms deal was seen by civil society as an example of how government and Parliament can ignore the principle of accountability.

### a) The litmus test

Following the investigation that was conducted on the arms deal, both civil society and media began to describe the arms deal as a “litmus test” for anti-corruption efforts (Camerer, 2009; Feinstein, 2008; Holden, 2008). According to Camerer (2009, p304) the term “litmus test” was coined by Richard Calland of Idasa. It is critically important to emphasise that the metaphor of a litmus test is quite ubiquitous especially in most policy discussions. It is almost impossible to credit any individual for coining this metaphorical phrase, which has its origin in chemistry. In terms of chemistry, litmus test refers to a test of acidity hence in some instances people talk of acid test. However, in the context of the arms deal and the fight against corruption in South Africa, the metaphor could be associated with Idasa.

Idasa was the first NGO to publicly make reference to a litmus test to describe the recommendations made by the Standing Committee on Public Accounts (Scopa) to the National Assembly regarding the investigation of the arms deal. On 30 October 2000, Scopa issued the 14th Report to the National Assembly for adoption (Camerer, 2009). The National Assembly adopted the report on 03 November 2000 in which Scopa recommended the investigation that involved key law enforcement agencies. The recommendations made by Scopa prompted Idasa to release a media statement, which said:

> *"We welcome the committee's positive and assertive approach in tackling what may prove to be a test case for the future of democratic accountability in South Africa…Given the importance of the case, and its complexity, it is very creative and sensible idea for the committee to oversee an exploratory meeting involving all the key anti-corruption bodies, and we support this recommendation. The recommendations demonstrate the central role that parliament can play in ensuring that there is meaningful oversight of executive power…The stakes are high: it is really a litmus test for the various institutions of democratic accountability".*

Later, the metaphor was specifically used to refer to the effectiveness of Parliament in exercising its constitutional power to get the executive to be accountable:

> *"The arms deal inquiry is a "litmus test" of how effective the system of parliamentary committees will be".*

Interestingly, as time went on, the metaphor was used quite loosely to describe various issues. The emphasis moved from democratic accountability to good governance and anti-corruption efforts. Although the South African chapter of the Economists Allied for Arms Reduction (ECAAR-SA) often quoted (or maybe

misquoted) Idasa when using the metaphor, it changed the reference to accountability and instead introduced a broader concept of good governance:

> *"[Idasa] has described the arms deal as 'the litmus test of South Africa's commitment to democracy and good governance'".*

In this use of the metaphor, the test was no longer of accountability but of democracy and good governance. The term good governance encompasses accountability but includes other things as well. The nuanced use of the metaphor seems to weaken the storyline instead of strengthening it. ECAAR-SA seemed to understand this matter hence they always reminded everyone that the metaphor belongs to Idasa. However, on the other side, PSAM used the metaphor quite independently of Idasa and in that way supported the storyline of poor accountability:

> *"Arms Deal investigation is to serve as a litmus test of the effectiveness of South Africa's institutional capacity to combat corruption".*

Reference to institutional capacity is probably more appropriate in the sense that all institutions such as Parliament, the executive, law enforcement agencies and even civil society do have a role to play insofar as ensuring that there is accountability and transparency. PSAM, unlike ECAAR-SA is part of the Civil Society Network against Corruption (CSNAC). As much as the arms deal was seen as a test case for democratic accountability, similarly it presented the opportunity for civil society to take a very strong role in fighting corruption in South Africa.

In his criticism of civil society, Colm Allan of PSAM stated that no CSO took action to support and strengthen the work of Parliament and constitutional bodies. Although no supportive action was taken, Idasa and ECAAR-SA

continued to address the matter using different approaches. Idasa resorted to making submissions to Scopa. This NGO has relentlessly used the metaphor of a litmus test and backed it up with some explanation:

> *"We offered the view that the case would be a 'litmus test' of democratic accountability in South Africa. We stand by that view and now wish to promote a public debate about what the key lessons to learn for the future are".*

ECAAR-SA on the other hand, took a very aggressive approach and litigation was seen as the option in the attempt to cancel the arms deal. Although ECAAR-SA claimed that it had support from partners, it was always shy to name any of these partners. Idasa held steadfastly to the storyline of poor accountability and saw the need to take a less aggressive approach.

### b) Coherence in the use of the storyline of poor accountability

The metaphor of a litmus test in the context of the arms deal was used quite extensively in the media. At a glance, one is tempted to think that the metaphor took a form of a constitutive myth. However, the use of this metaphor was ubiquitous as far as referring to the impression of Idasa. Unlike the storyline of moral crisis which sent out the message of catastrophe, the storyline of poor accountability did neither inspire coherence to avoid catastrophe nor obtained any coalition of actors who used it constantly to such an extent that it solidified into institutional practices. The concept of accountability continued to be used in its generic sense without any anti-corruption undertones.

At the 2nd National Anti-corruption Summit held on 22 March 2005, Colm Allan referred to the arms deal as the litmus test but interestingly used the same metaphor to describe civil society response on this matter:

> *"In this regard the Arms Deal investigation has also served as a litmus test for the effectiveness of civil society oversight over government expenditure. It is a test which civil society failed…"*

The use of the metaphor to refer to the effectiveness of civil society seems to indicate that for a moment, coherence around the storyline of poor accountability was beginning to emerge. Colm Allan clearly stated that civil society failed the test. It is ironical that this criticism was coming from civil society itself. However, this criticism should be understood to mean that civil society was not vociferous enough to create the perception of rampant corruption within government. This interpretation makes sense if one looks at the meagre amount of pressure civil society put on both Parliament and government to answer questions about corruption that was associated with the arms deal.

In another interesting event, the former Minister of Defence, Mosioua Lekota, used the metaphor when the report of the Joint Investigative Team (JIT) was released on 14 November 2001. He became the first government official to use it openly:

> *"Indeed, let those who chorused that the investigation into the arms deal would prove a litmus test for our young democracy now proclaim with equal volume that the test has been passed with flying colours".*

Camerer (2009) reveals that Lekota's statement was levelled against Idasa. At one level, at least government acknowledged the importance of accountability. At least the voice of Idasa and ECAAR-SA was heard within the corridors of government. The voice could have been stronger if more civil society organisations could have joined in to support Idasa and ECAAR-SA. Although Idasa relentlessly countered that the test was not passed, the JIT report seemed to have eased the pressure from government when it stated that:

> *"It is evident from the investigation that the perception of widespread corruption within the Government is without justification".*

From the above discussion, it is evident that the metaphor of litmus test did not inspire any coherence in terms of understanding the problem of corruption. Idasa and its partners did attempt to create a foundation in which all political actors could cohere around the notion that corruption was prevalent within the arms deal. On the other hand, ECAAR-SA knew very well that the arms deal could only be abandoned if government could see its negative consequences. Therefore, ECAAR-SA tried to inspire a dystopian myth, which negated the constitutive myth driven by Idasa. PSAM, while they wanted to advance the storyline of poor accountability, did acknowledge the systemic weakness of civil society in influencing institutional practices. As a result, the storyline of poor accountability did not bring about any coherence that translated into institutional practice.

### c) The emergence of new vocabulary

It has already been argued that the storyline of poor accountability was not powerful enough to influence any change in language and practice. This is more so because the concept of accountability is commonly used with various meanings. The concepts of accountability and transparency are seen as the key principles of democracy. Accountability is often invoked when constitutional values and principles are discussed. The Constitution has created a basis for a common understanding of the concept of accountability.

When Idasa and other CSOs invoked the constitutional principle of accountability, everybody sort of understood exactly what the concept meant. When questions were raised about the arms deal, it was not totally unexpected to see some CSOs adopting and embracing the concept of accountability. This

phenomenon intensified when there were also stories of corruption reported in the media. By 1999, at least the word accountability appeared in the name of one anti-corruption NGO, the Public Service Accountability Monitor. When the storyline of poor accountability gained momentum in early 2000, most CSOs began to use the word “accountability” in their vision and mission statements. The collective vision of civil society was to see accountability in South Africa’s democracy. The birth of ODAC in 2002 is an example of this vision. There was a realisation that accountability alone is not sufficient without transparency. Both government and civil society advocated for open democracy. Nonetheless, the storyline never got to a stage where it gave rise to key policy vocabularies. The concept of accountability did not spark the emergence of any new vocabulary associated with it. Concepts such as transparency and open democracy were not new. However, they became used frequently alongside the concept of accountability.

### 5.3.3. Insufficient measures

The Government of South Africa has since 1997 put in place mechanisms and measures to fight corruption, particularly in the public sector. The moral regeneration campaign, which was more influenced by the storyline of moral crisis, was driven alongside an array of anti-corruption reforms. Numerous institutions were established and pieces of legislation were enacted to fight corruption in the country. Civil society in South Africa was always afforded the opportunity to take part in the reforms. As stated above, civil society was part of the first national anti-corruption summit that was held in Cape Town in 1999 and continued to be part of various anti-corruption conferences that were held around the country.

When the storyline of poor accountability failed to gain any prominence in the anti-corruption discourse, civil society, which was energised after the arms deal looked elsewhere to put pressure on government to strengthen the fight against

corruption. Anti-corruption measures, which at that time were peaking up, became the target for civil society. The opportunity was granted through the introduction of the Corruption Bill. Idasa took a lead in terms of mobilising CSOs to engage with the new Bill (Camerer, 2009). A number of meetings were convened to discuss the Bill. The following CSOs were part of a coalition that was led by Idasa: the ISS, Black Sash, the Southern African Catholic Bishop's Conference and ODAC.

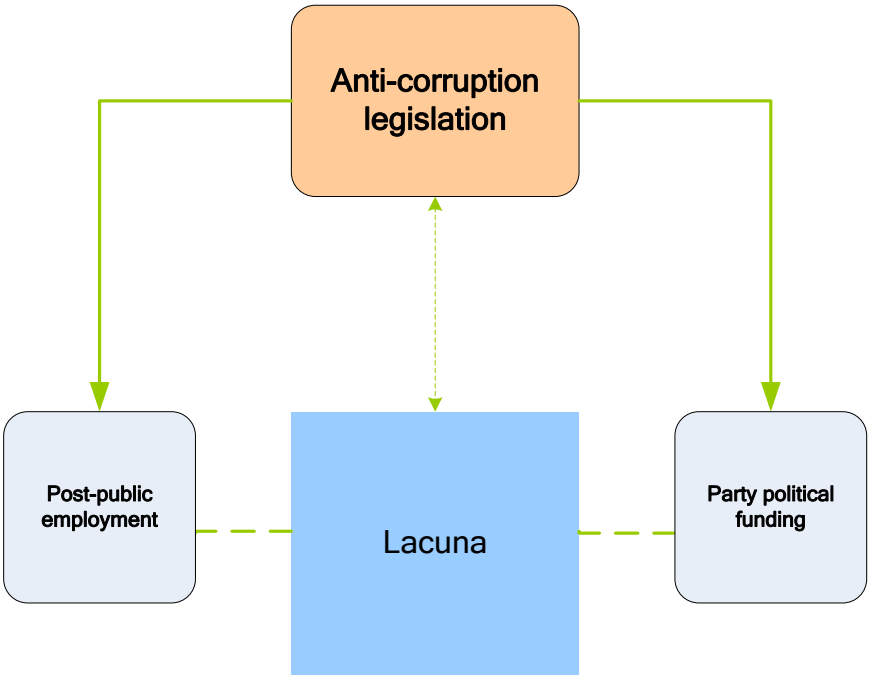
The deliberations and discussions that took place within civil society led to the emergence of the storyline of insufficient measures. Camerer (2009) maintains that corruption scandals in South Africa are rooted in the absence of key regulatory mechanisms and their effective implementation

The storyline of insufficient measures acknowledges that government has made some efforts to fight corruption but however, these measures are not sufficient enough to deal with the phenomenon of corruption. Problems were mainly identified within the new anti-corruption law, the Prevention and Combating of Corrupt Activities Act and the various conflict of interest measures for both elected and appointed public officials. This insufficiency was best described in the metaphor of lacuna that was frequently used by Idasa and its partners.

### a) The metaphor of lacuna

The Oxford Dictionary defines lacuna as a hiatus, blank, or gap. A hiatus will be more appropriate only in geological sense. In legal terms, a lacuna refers to absence of applicable law or a gap in law. Lacuna may also refer to a missing section of a text in a manuscript. Generally the concept of lacuna means that something is missing, hence there is a gap.

**Figure 5-4: Lacuna in anti-corruption legislation**




Like the litmus test, the metaphor of lacuna was first used by Idasa in 2003 in describing the lack of regulation of private funding of political parties:

> *"While South Africa has an impressive arsenal of anti-corruption legislation, there is a glaring lacuna"*[50].

Chapter 4 provided a detailed discussion on some of the problems that have galvanised the action of civil society, particularly Idasa. As Idasa clearly indicates, South Africa has made an impeccable impression in terms of ensuring that there is legislation to deal with corruption. the lacuna referred by Idasa has to do with absence of legislation to regulate private funding of political parties and activities of public officials who leave public employment. With regard to party

[50] Idasa comment on Regulation of Private Funding to Political Parties (Appendix 1) written by Judith February 28 January 2003.

political funding, Idasa laments the long period that has lapsed without any commitment to put legislation in place to address this matter:

> *"After nearly 10 years of democracy, the secrecy surrounding the private funding of political parties has not been pierced because there remains a glaring lacuna in South African law"*[51].

Idasa and other CSOs that took part in the political party funding used the metaphor of lacuna not only to describe the state of anti-corruption legislation but policy frameworks. In 2004, Idasa conducted a comprehensive study on government ethics in post-apartheid South Africa. The outcome of this study revealed that conflict of interest measures are also characterised by a salient absence of post-employment restrictions. Idasa again used the metaphor of lacuna to describe the gap in the government policy:

> *"The absence of post-employment restrictions for high-ranking officials and office bearers imply that there is a lacuna in the South African broader ethics regime. This lacuna weakens the current South African ethics regime".*

Both post-employment restrictions and party political funding are areas that are critical to the fight against corruption. Figure 5-4 above demonstrates a lacuna in anti-corruption legislation. Although civil society broadly has raised the problem in these areas, government is yet to address these matters. Civil society has engaged with Parliament, political parties and government in the effort to close these gaps.

Lack of concrete action to address the problems in the anti-corruption legislation could mean that relevant stakeholders are yet to understand the metaphor of lacuna. The concept of lacuna as indicated above is quite technical. In the anti-corruption context, this concept is a jargon that could

[51] Idasa seminar held in Grahamstown 28 September 2005

be understood better by people in the legal field. Therefore, the choice of this metaphor could have been quite unintelligible to policymakers. As a result, policymakers did not really get the message that was sent through the metaphor.

**b) Coherence in the use of the storyline of insufficient measures**

It is quite common to hear an extensive enumeration of an array of anti-corruption reforms every time when senior government officials and politicians have to address any gathering. However it is seldom to hear any mention of any serious gaps that exist in the anti-corruption framework. In fact, both government and the ruling part do feel that South Africa has adequate measures in place to deal with corruption. Civil society has not successfully refuted this claim. In fact only very few CSOs have ventured to disagree with government. Although various opinion surveys conducted in South Africa indicates that the level of corruption is relatively high, the general public is yet to disagree with government about the adequacy of anti-corruption measures.

As stated above, Idasa and its partners chose to use an esoteric metaphor to explain the storyline of insufficient measures to the public and the key policy actors. The use of a metaphor in a storyline is to get the attention of decision makers to take some action. The decision makers have to see a point with the problem indicated to them through a metaphor. The metaphor of lacuna does not have a dystopian or constitutive myth. The outcome of the litigation case of the party political funding demonstrated that there is no harm with non-regulation of private funding of political funding:

> *"The difficulty that the applicants face in this regard is that … they do not explain how the respondents' donation records would assist them in exercising or protecting any of the rights on which they rely*

*or why, in the absence of those donation records, they are unable to exercise those rights*"[52].

In the opinion of policymakers, a metaphor of lacuna does not send out any catastrophic message. In the court papers and other papers that were written by Idasa, an attempt was made to draw a link between non-regulation of private funding of political parties and corruption (Sarakinsky, 2007). Although the litigation case of Idasa was much publicised, it did bring about coherence simply because commentators did not understand the problems raised by Idasa. As Sarakinsky points out, Idasa did try to demonstrate the dystopian myth of the metaphor of lacuna with regard to private funding of political parties. The reasons for court application centred on three issues: causal link between secrecy and corruption; the deleterious effects of secrecy on democratic accountability and the way secret funding undermines popular representation in public institutions (Sarakinsky, 2007).

### c) The emergence of new vocabulary

South Africa still does not have regulations to deal with the purported lacuna in anti-corruption legislation despite a well orchestrated campaign by Idasa and the campaign partners. After every general election, Idasa writes something about private funding of election campaigns but not much enters the public discourse. Clearly civil society, particularly Idasa, ODAC and the ISS have not given in to get policymakers to do something about the lacuna.

In 2008, a group of civil society organisations represented by CSNAC in the NACF managed to get the matter of private funding of political to be discussed at the conference[53]. Although the matter was subsequently discussed at the conference, it did not bring any new insights. Therefore the storyline of

[52] Judge Griesel's Judgement delivered 20 April 2005
[53] Minutes of the NACF meeting held on 28 February 2008

insufficient measures practically ceased to penetrate public discussions on anti-corruption policy in South Africa. The demise of the storyline also meant that no new vocabulary emerged. Very little is being said about regulating post-public employment and private funding of political parties. There are very few new concepts that are used such as “javelin throwing” which are beginning to emerge but do not have any direct link with the storyline of insufficient measures. This vocabulary is emanating from the ANC and its alliance partners.

> *“A particular problem is one we call ‘throwing the javelin', where politicians, public servants and unionists feather their nests while still in public service, by creating future business opportunities”*[54].

The new vocabulary was borne out of a report by the auditor-general in which public servants were fingered for looting the State funds. This report, although it dealt with issues of conflict of interest, it did not cover post-public employment. In fact, the emergence of this new vocabulary could be attributed to lack of enforcement of measures rather than their inadequacies.

## 5.4 Discourse coalition in the fight against corruption

This chapter has outlined three key storylines that characterised anti-corruption policy for the past 10 years. At least two of the storylines came from civil society while one came from government. There is a general understanding that policy is driven by government and it is quite natural to have at least one storyline associated with government. But, it would have been quite unusual not to have a single storyline emanating from civil society because civil society thrives on contesting policy. This point is emphasised by Judith February who argues that civil society draws its vigour and strength from the use of language:

[54] Address by Zwelinzima Vavi at launch of Business Anti-corruption forum held on 30 October 2009

> *"[Civil society organisations] contest the policy ground with vigour and dedication. Generally, they do so armed solely with the power of persuasion and argument".*[55]

The contestation of policy which is done with persuasion and argument leads to politics. The power of persuasion and argument in the context of this study can be seen as a good indicator of the role of civil society in the fight against corruption. The three anti-corruption storylines and their metaphors have already been discussed. It is now important to see if the power of persuasion and argument embodied in the storylines did manage to lead to discourse coalition.

If one looks at the three storylines, they are addressing two related policy domains of morality and ethicality. Government sees a problem of moral depravation and society is the culprit. On the other hand, civil society sees a problem of unsound ethical infrastructure and the problem lies with political institutions. The connection between morality and ethicality does not necessarily mean that storylines can be automatically reconciled. However, to build a solid national integrity system one needs to reconcile the problems of societal morality and ethicality. Societal morality has proven to be a weak policy field, which explains why civil society and media did not fully entertain it. When it comes to ethics of politicians, government officials, business officials and the credibility of institutions, everybody is affected by default. Ethicality is about governance and political legitimacy. This problem makes ethicality a relatively strong policy field.

Connecting the two policy domains leads to a discourse coalition. It this case, both civil society and government would have seen the point of resolving the problem of societal morality by strengthening the country's ethical infrastructure. Both government and civil society did not fundamentally disagree with each other's point. Civil society acknowledged the problem of moral crisis and government also realised the need to make some institutional and legislative

[55] Article written by Judith February, GlobeNet3, 14 October 2003,

reforms to address problems of ethicality. However, a disagreement is apparent in practice, which dispels any thoughts of discourse coalition. South Africa is yet to regulate post-public employment and private funding of political parties. The arms deal case which triggered the storyline of accountability is also far from being finalised. While stories and incidents that triggered the storyline of moral crises have subsided, there is a plethora of cases and stories relating to lack of integrity by institutions and public officials. Kris Dobie of Ethics Institute of South Africa observes that:

> *"There are lots of big issues, incidents in South Africa. I think the number of these incidents is disturbing. The talking is there. It's all issues related to moral leadership. Lots of talk, but empty."*[56]

If the situation has not changed since 1997 despite all the talks and engagements that happened, then it is evident that the lack of power of persuasion and argument was devoid from the storylines. The anti-corruption discourse has not fully crystallised into institutional practices. The storylines have only succeeded insofar as creating consciousness. In this study, the focus is on civil society and therefore, the deduction that can be made is that civil society has not been able to infuse power of persuasion and argument in their storylines.

Anti-corruption discourse in South Africa is generally devoid of discourse coalition. There are a number of actors who are involved in the fight against corruption but do not necessarily share the usage of a particular set of storylines, within the context of identifiable set of practices. The sharing of storylines is not strong enough. It is perhaps natural to see faith-based organisation talking about moral crisis but being silent on other issues such as post-public employment or the arms deal. Most observers are critical of the role of civil society in the fight against corruption. Almost all participants of this study were critical of civil society. This point is well attested by Peter Just in his criticism of the NRLF:

[56] Interview with Kris Dobie

Kris Dobie blames the lack of discourse coalition on weak civil society. According to him, there are a number of issues that require action and civil society is not doing enough to address these issues. He advises that:

> *"Civil society should have more collaborative voicing of concerns because I think that there are lot of issues that warrant collaborative efforts".*

Initiatives like the NACF have given civil society the platform and opportunity to regroup and strengthen its role in the fight against corruption. Interestingly civil society is blamed for the ineffectual functioning of the NACF:

> *"The NACF is a manifestation of civil society's weakness"*[57]

## 5.4 Collaborative policy dialogue

If there is no discourse coalition in anti-corruption policy, what else can happen to ensure that civil society plays a meaningful role in the fight against corruption? There is sufficient evidence that some CSOs are doing some incredible work to support the fight against corruption. It is a fact that government is not going to succeed in the fight against corruption without civil society getting involved. Innes and Booher (2006) suggest that policy actors should engage in authentic dialogue instead of rhetoric. On some occasions, civil society chooses to be aggressive and confrontational when dealing with policy issues. There are at least a few litigation cases brought forward by civil society. These cases have succeeded in building love-hate relationship between civil society and government. Government has also not been genuine and transparent when dealing with civil society.

[57] Interwiew with Hennie van Vuuren

One of the requirements of authentic dialogue is that speakers should make comprehensible statements. The storylines and metaphors that were employed by civil society were not always comprehensible to many people. The point in case is the metaphors of lacuna and litmus test. This language was not intended to be understood. In nature conservation, the metaphor of acid rain was often used to refer to pollution (Hajer, 2006). The community of environmental practitioners and activists immediately associated this metaphor with air pollution caused by industrial emission. Anti-corruption, unlike nature conservation, does not consist of an identifiable group of actors. Therefore it is not always easy to come up with language that is easy to be understood by everyone. An incomprehensible language compromises the power of persuasion and argument.

Government relied heavily on faith-based organisation to get support for the moral regeneration campaign. The problem with this is that the policy actors lacked diversity and interdependence. Moral regeneration is not necessarily a religious matter, which precluded other interests. Government did not see the need to link campaign with an anti-corruption campaign. If it did, various interests could have been engaged. Civil society too, did not consider moral regeneration as a matter important to bring about social change. Diversity and interdependence guarantees inclusiveness and creativity.

## 5.5 Conclusion

Anti-corruption policy discourse is underpinned by three distinct storylines of moral crisis, lack of accountability and insufficient efforts. Civil society has driven their campaigns using these storylines and their metaphors. Although a lot of vigour and enthusiasm was evident in these campaigns, the storylines did not carry much power of persuasion and argument. Hajer believes that a dominant discourse is depended on the ability to put forward a storyline that carries the power of argumentation. Unfortunately, the kinds of storylines that emanate from

the work of civil society do not substantially contribute to the type of a discourse that manages to solidify into policy and institutional practices. Therefore, these storylines do not present a dominant discourse.

The storylines were compromised by esoteric metaphors. A metaphor, in the context of policymaking, if it finds prominence it can define the problem and ultimately influence change. Policy actors often use metaphors to influence the definition of the problem. Government seemed quite successful in getting the storyline of moral crisis to be understood by all citizens. However, because of lack of discourse coalition, anti-corruption policy in general is not strong enough to deal with the problem of corruption in this country.

# CHAPTER 6

# CONCLUSION

## 6.1 Introduction

It is generally acknowledged that civil society has a critical role to play in the fight against corruption. This study was cognisant of the fact that the role of civil society in the fight against corruption cannot in anyway be measured against the role of government or business sector. When it comes to the problem of corruption, no single sector or entity can be given the responsibility to fight this problem on its own. Therefore the conclusion made by this study is only concerned with those aspects that civil society is generally expected to perform as outlined in chapter 3.

## 6.2 Reflections on the objective of the study

It is important to check if the objective of thus study was achieved. In Chapter 1, it is stated that the objective of the study is to:

- Examine the discursive practices of civil society in the fight against corruption in post-apartheid South Africa;
- Provide new ontological and epistemological dimensions in studying the anti-corruption work of civil society; and
- Improve policy argumentation in the deliberation of various solutions to curb the prevalence of corruption in all sectors of society.

This study dealt with the discursive practices of civil society in the fight against corruption in post-apartheid South Africa in both Chapter 4 and 5. In order to achieve this part of the objective, the study started by identifying and reviewing

the practices and activities of civil society that constitute a meaningful role in shaping anti-corruption discourse and public policy. This process was followed by a more rigorous technique to determine the manner in which this role is created through constructive effects of discourses and associated argumentation. An analytical framework that is based on Hajerian discourse analysis was used. The framework consists of three elements of policy discourse, discourse coalition and institutional practice.

The point of departure for this study is that anti-corruption is a policy discourse that contains a few storylines. The three storylines of moral crisis, poor accountability and insufficient measures were used to elucidate anti-corruption policy discourse. In order to fully understand these storylines, the three layers of a policy discourse, which includes metaphors and myths, policy vocabulary and epistemic figures, were examined in detail. The most interesting point is that all these storylines attempted to use a dystopian myth which wishes to establish coherence in order to avoid catastrophe. The storylines focused on the negative effects of corruption such as a pervasive state of greed, hunger for power and lack of governance. However, civil society and government differed in terms of how they used the dystopian myth. Government relied on religious organisations to create coherence and to send out the message of moral crisis. On the other hand, civil society used small campaign coalitions and media to bring about coherence. Hajerian discourse analysis was probably the most appropriate method that could be used to examine the discursive practices of civil society in the fight against corruption in post-apartheid South Africa.

There is a need for more discourse analytic studies in order to provide ontological and epistemological dimensions to anti-corruption studies. Anti-corruption studies often follow a quantitative approach. There has not been adequate use of qualitative methods to conduct anti-corruption studies. Discourse analysis was used as both a research method and a methodology. This study demonstrated how this technique can be used to collect and analyse

data in order to answer the primary question following a rigorous approach as outlined above. The main aspect of this approach was to unmask the manner in which storylines form an anti-corruption discourse in South Africa. As this method was followed, a different dimension was revealed, which will assist in understanding the manner in which anti-corruption policy is formulated. This epistemological dimension demonstrated the reality about the role of civil society as embedded on the practice as informed by language employed by actors. The importance of language in policymaking can no longer be ignored.

Anti-corruption is such a complex matter and it is probably useful to use discourse analytic studies to understand this matter. Anti-corruption is definitely a discourse, which consists of storylines. All these storylines are negative in the sense that they see problems somewhere. However, the discussion of these storylines in this study creates a platform for improved policy argumentation. There are definitely some more storylines that this study could not cover. Most anti-corruption actors may not be aware of some of these storylines. The underlying principle of this study is that discourse analysis creates awareness on the type of language that helps improve policymaking. The awareness leads to more deliberation using language that has more impact.

## 6.3 Is civil society playing a critical role?

It is important now to check if the findings of this study do answer the primary question and the secondary questions. The primary question of this study is outlined in Chapter 1 as follows:

- To what extent is civil society playing a role in the fight against corruption in post-apartheid South Africa?

The work of civil of civil society in South Africa can no longer afford to be described in some nebulous terms. Civil society has concrete advocacy

programmes and a well sustained anti-corruption agenda. This study has provided substantial evidence that civil society in South Africa is involved in the fight against corruption. This sector is concerned about the corrosive effects of corruption in the country. Although there is evidence that civil society is involved in the fight against corruption, there is also a strong case that suggests that there is uneven participation in the fight against corruption. At least half of the organisations that were studied do not have concrete anti-corruption programmes. Organisations such as Transparency South Africa, SANGOCO, Moral Regeneration Movement and National Religious Leaders Forum have over an extended period of time, struggled to run coherent and solid advocacy programmes. Most of these organisations do not have adequate human and financial resources at their disposal.

Despite uneven participation, there is also a compelling case for most anti-corruption researchers in South Africa to begin to review the work of civil society in concrete terms. Organisations such as Idasa, ODAC, the ISS and PSAM have continuously put government under some serious scrutiny. They have distinguished themselves through well coordinated advocacy and monitoring programmes. Anti-corruption literature profiles these organisations as good examples of anti-corruption NGOs. The good work of these organisations meets the standards set by Holloway in which NGOs could run successful advocacy and monitoring programmes.

## 6.4 What can civil society do to improve the fight against corruption?

### 6.4.1 Making storylines effective

Civil society has not been able to use the storylines effectively to strengthen anti-corruption policy. Effective storylines inspire change on the status quo. Metaphors, because of the succinct messages they carry, can change previously

held opinions. This study has argued that the types of metaphors used by civil society are not easily understandable. The metaphor of a litmus test, while used to provoke a response from government, did not carry a positive message. This metaphor was seen by other actors as criticism of government and Parliament. Only a handful of people understood exactly what the metaphor meant in the context of a problem that required the exercise of constitutional principles and values. As a result, no contestation over the factual relevance of this metaphor was observed. Both government and Parliament easily dispelled the dystopian myth of this metaphor. Because the metaphor was only understood within a small circle of CSOs, it was not widely used by ordinary citizens.

The result would have been better had civil society used a metaphor that is based on facts and aspired values. The metaphor of acid rain, which was used in Europe by environmental activists during the 1980's, was based on a scientific fact that air pollution caused by industrial emission was the source of the environmental crisis. Storylines based on values and facts provides the power of persuasion and argument. The absence of these features in the storylines has seriously hampered the role of civil society in influencing anti-corruption policy in South Africa. The NACF creates a space where civil society could demonstrate their power of persuasion and argument. It is well known that civil society within the NACF is not pleased that South Africa does not have legislation to regulate private funding of political parties. However civil society has not been able to persuade anyone, including a high court judge. Civil society needs to select appropriate messages to create powerful storylines. A storyline will then be backed up by a solid advocacy programme.

An effective storyline takes a short space of time before everyone uses it. Once people get to use it, policymakers will inevitably make the desired changes. Some of the metaphors that were used by civil society got to appear in a number of newspapers. However, civil society found it difficult to take these metaphors to ordinary citizens and other CSOs. The spread of storylines and metaphors leads

to discourse coalition. The more people begin to talk about the matter, the more common understanding is seen. Once people begin to share opinions and understanding, the more coalitions are seen. Anti-corruption policy as whole is also weakened by lack of discourse coalition. Corruption is a problem that requires a dystopian myth. People have to immediately see the deleterious effects of corruption. If storylines are used effectively, it will make it easier to deal with corruption.

### 6.4.2 Extending anti-corruption campaigns to other NGOs

The challenge for successful organisations such as the ISS and ODAC is to assist other struggling organisations to run coherent anti-corruption campaigns. Post-apartheid civil society organisations seldom work together in a very cohesive manner. There are some exceptional cases where organisations worked together in a campaign. The party-political funding campaign that was spearheaded by Idasa brought together various CSOs to challenge the state and political parties to introduce legislation to deal with private funding of political parties. This campaign attracted the attention of organisations such as the South African Catholics Bishops Conference and the South African Council of Churches, which are not primarily working on anti-corruption issues. The involvement of these organisations have been formalised though a loose coalition. The coalition includes a prominent labour movement in South Africa, COSATU. Anti-corruption NGOs need to leverage on the strength of organisations such as COSATU and Treatment Action Campaign who have been successful in influencing policy in South Africa.

The Apartheid Grand Corruption Report that was commissioned by the NACF brought together several NGOs to collaborate on this project. Although the ISS is credited for leading this project, wealth of expertise was drawn from other NGOs. The Centre for Study of Violence and Reconciliation (CSVR) joined the ISS, Idasa, ODAC and NRLF to produce a report that was well received in South

Africa. This cooperation promotes a sharing of expertise and experiences which can only benefit the fight against corruption in South Africa. This is the kind of interdependence that is advocated by post-empiricists and theorists of collaborative policymaking.

Only three CSOs, Idasa, ISS and ODAC, are consistently collaborating with each other to support the fight against corruption. Interestingly, these organisations run their anti-corruption programmes from Cape Town. Both the ISS and Idasa are together involved in the running of the party funding monitor. This relationship is not seen with faith-based organisations such as the MRM and NRLF. In fact, although the two organisations run some similar initiatives, there is little cooperation between them. These two organisations do not receive substantial funding as compared to the Cape Town based organisations.

Both Sangoco and T-SA lack the prominence and the credibility enjoyed by Idasa, ODAC and the ISS. The anti-corruption work of T-SA is disappointing given the fact that this organisation has links with the prestigious Transparency International. The anti-corruption programmes of these two organisations were at one stage run by one person supported by an intern.

There is also some kind of duplication of efforts between the CSOs. The ISS is running a successful electronic newspaper and there seems to be no need for T-SA to introduce another electronic newsletter. The same situation is observed with NRLF's Bill of responsibilities and MRM's Charter of Positive values. These initiatives are closely related and it would be proper if organisation could instead work on one initiative together.

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# APPENDIX A

## INTERVIEW PROTOCOL

1. How is your organisation involved in the fight against corruption?
2. What specific programmes and activities are undertaken by your organisation to prevent corruption in the country?
3. How would you describe the relationship between your organisation and government?
4. How does your organisation involve local communities in the fight against corruption?
5. How does the work done by your organisation enter public discourse?
6. What impact does it have in shaping public opinion?
7. How does your organisational work influence anti-corruption policymaking in the country?
8. How would you describe the role of civil society in the fight against corruption?
9. What are the primary issues of interest for civil society?
10. How is civil society pursuing these interests?
11. How do civil society activities influence anti-corruption policymaking in the country?

# APPENDIX B

LIST OF INTERVIEWEES

| Name of interviewee | Designation | Organisation | Date of interview |
|---|---|---|---|
| Mr Hennie Van Vuuren | Head: Corruption and Governance Programme | Institute for Security Studies | 19 June 2008 |
| Ms Alison Tilley | Chief Executive Officer | Open Democracy Advice Centre | 19 June 2008 |
| Mr Pienaar | Senior Researcher: PIMS | Institute for Democracy in South Africa | 19 June 2008 |
| Mr S Molapisi | – | South African NGO Coalition | 25 August 2008 |
| Mr Peter Just | Elected Representative in the NACF | National Religious Leaders Forum | 24 June 2008 |
| Mr Roderick Davids | Director: Promotion of Ethics | Office of the Public Service Commission | 02 July 2008 |
| Mr Kris Dobie | Manager: Organisational Ethics Development | Ethics Institute of South Africa | 01 July 2008 |

# APPENDIX C

KEY INCIDENTS AND EVENTS THAT SHAPED THE ROLE OF CIVIL SOCIETY IN THE FIGHT AGAINST CORRUPTION

| Date | Incident/Event | Key role- players |
|---|---|---|
| 18 November 1998 | Government approves the purchase of about R30 billion worth of defence equipments as part of the Strategic Defence Procurement Package (Arms Deal) | President Thabo Mbeki, Cabinet |
| 22 October 1998 | A Moral Summit is held in Johannesburg | Government, ANC |
| 14-15 April 1999 | First National Anti-Corruption Summit | Government, civil society and Business |
| 09 September 1999 | PAC MP Patricia de Lille announces that the Arms Deal is riddled with corruption and requests government to institute a full investigation | Patricia de Lille, government |
| 11 October 1999 | 9th International Anti-Corruption Conference (IACC) in Durban | Civil society, government |
| 15 June 2001 | Launch of the National Anti-Corruption Forum in Cape Town | Government, civil society and Business |
| March 2004 | SA signs AU Convention on Preventing and Combating of Corruption | Government |
| April 2004 | The Prevention and Combating of Corrupt Activities Act 12 | Government |
| 11 October 2004 | Shabir Shaik corruption trial starts | Shabir Shaik |
| March 2005 | Second National Anti-Corruption Summit in Pretoria | NACF |
| 08 June 2005 | Shabir Shaik is sentenced to 15 years in prison | Shabir Shaik |
| 14 June 2005 | President Thabo Mbeki fires Jacob Zuma from his post of Deputy President of South Africa | Thabo Mbeki, Jacob Zuma |
| 29 June 2005 | Jacob Zuma is charged with corruption and he makes his first appearance at court | Jacob Zuma |
| March 2007 | South Africa hosts the Africa Forum on Fighting Corruption | Government |
| 2-5 April 2007 | South Africa hosts the Global Forum V on Fighting Corruption | SA Government, state bodies form over 100 countries |
| 03 -04 August 2008 | Third National Anti-corruption Summit | NACF |