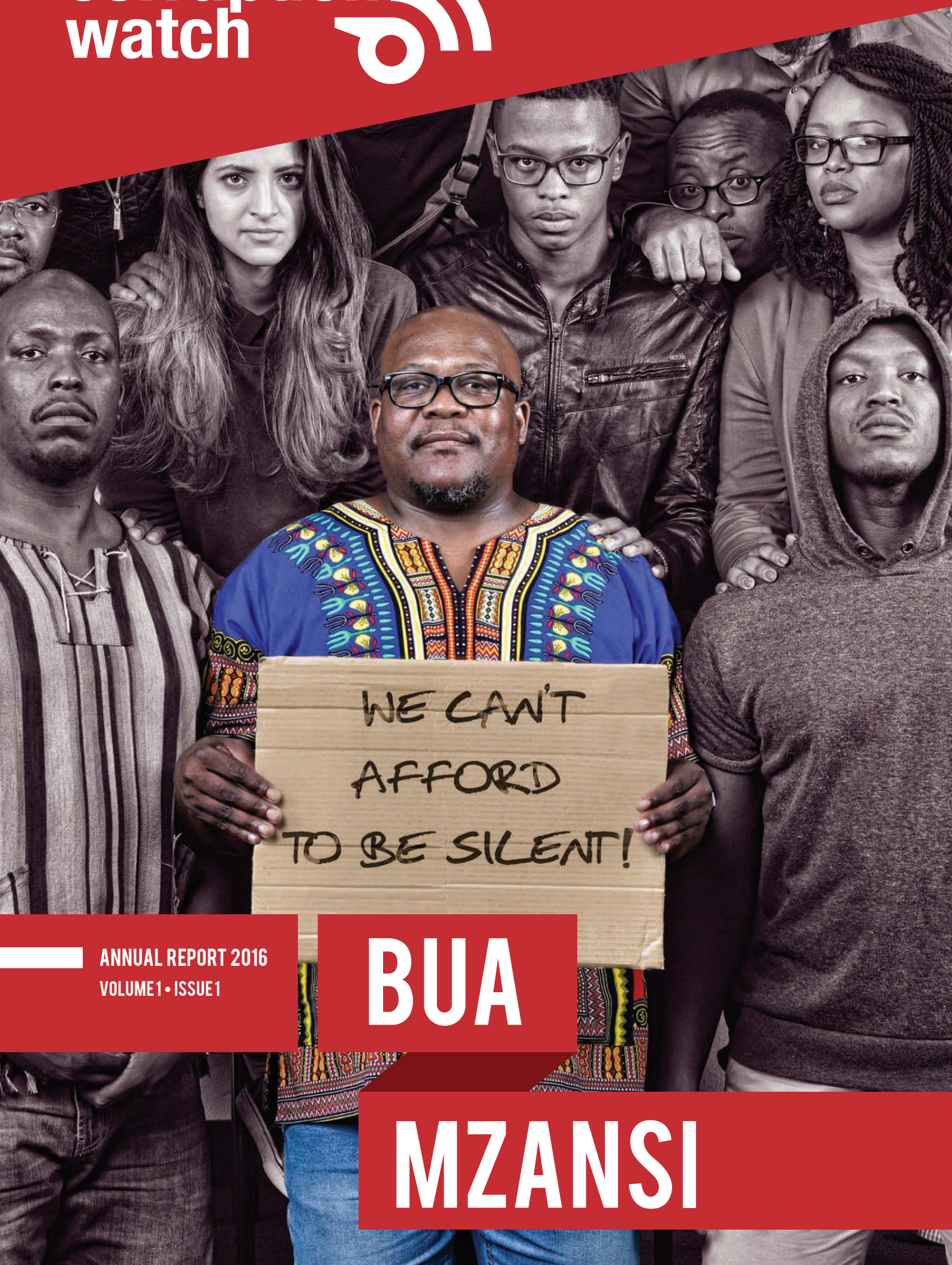


■ **corruption
watch**

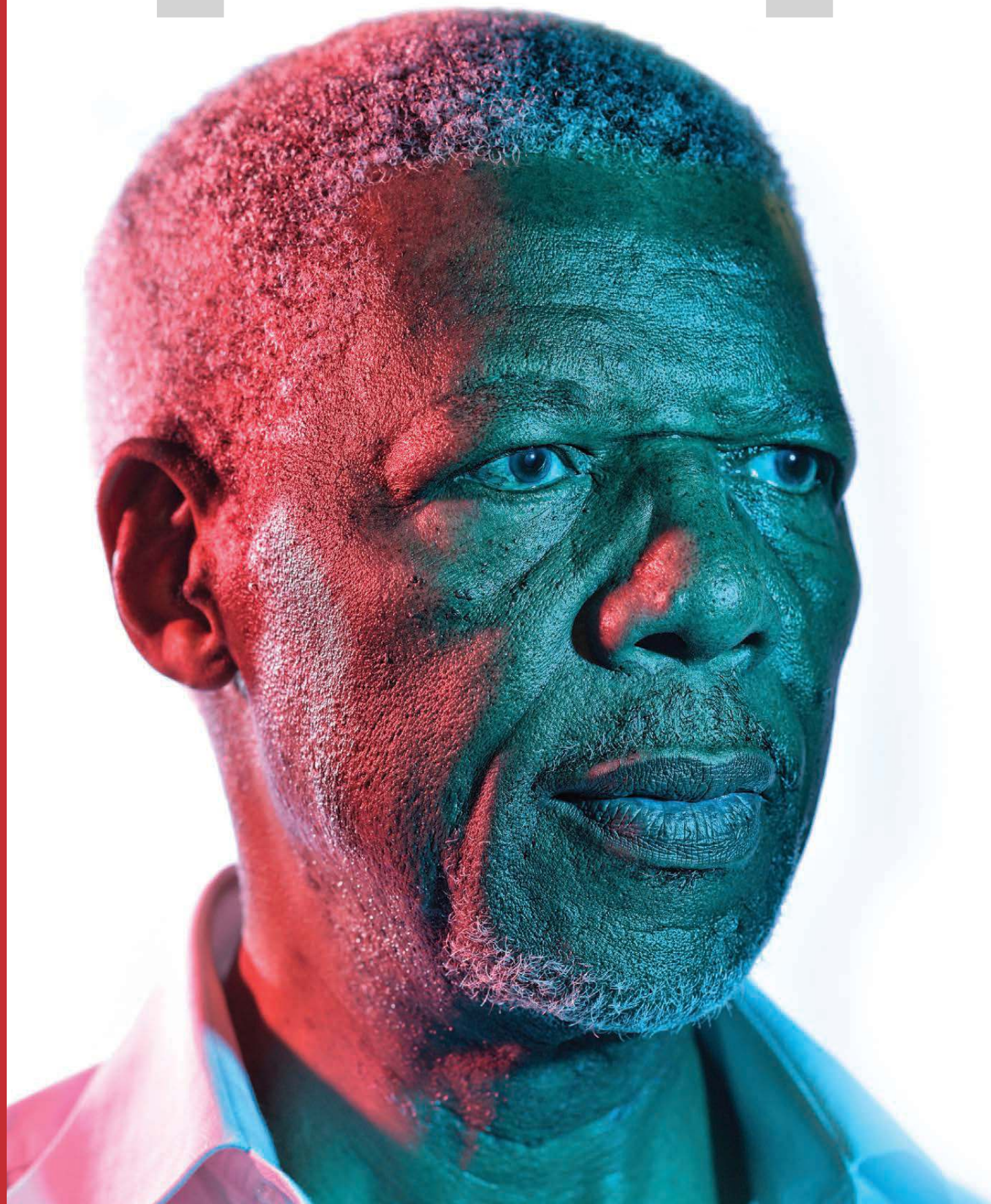


ANNUAL REPORT 2016
VOLUME 1 • ISSUE 1

BUA

MZANSI

MESSAGE FROM OUR CHAIR



Over the last few years, we have seen an increase in corrupt behaviour manifesting across all sectors of society. Media, on a global scale, is saturated with stories of corruption involving leaders from government, the private sector, civil society and sports bodies. We have witnessed the increase of collusion in the private sector, as well as the continuous threat against those brave enough to expose graft and blow the whistle. In our own country, we have also watched how the abuse of power and misuse of public funds can compromise a young democracy. It is for this reason that the founding members of Corruption Watch realised the need for an anti-corruption watchdog which would be free from political and business interference and become a loudhailer for the people.

When we opened our doors five years ago, we knew that that the task ahead would not be an easy one – but with the dedication and commitment of our small team, as well as the support that we received from the media and select groups within the public and private sector, we have made significant strides in the field of anti-corruption. From engaging in legal matters and making policy submissions, to our mobilisation campaigns and capacity building workshops at a grassroots level – it has been a busy but fruitful five years for our corruption busters. But, the real heroes of our story are the courageous 15 000 people who have reported corruption to us.

We celebrate whistle-blowers who have risked their reputations and jobs like Gogo Mavis* who travelled close to 500km from Kimberley to Johannesburg to report a case of corruption in her community, and Mam Sarah* who compromised her position on a school governing body to expose graft at a secondary school in Soweto. We also acknowledge people like Marthe Bikuelo, a refugee who reported a case of bribery at the Home Affairs Department in Marabastad and has been continuously victimised and harassed for her assistance in helping us highlight the plight of foreign nationals seeking asylum. These are only a few examples of the courageous, but difficult journeys that our whistle-blowers had to travel when facing corruption. These individuals are key to the work that we do at Corruption Watch. They enable us to speak with the authority of the public and to amplify the experiences of the ordinary members of our community. In so doing, our whistle-blowers have assisted in strengthening our constitutional democracy and in ensuring that public resources are deployed in the public interest.

We are also continuously overwhelmed by the support that we receive from the general public. Many people might not have a case of corruption to report to us, but still express interest in our movement. We are grateful to all those that have shared the fruits of our work across all social networks, have engaged with us and joined our mobilisation campaigns, as well as the donations that we have received in their biggest or smallest forms – we are thankful. It is through this support that we can continue with our work for the next few years to come and provide a key service to the people of this country.

2016 was a politically charged year. Brexit, the Trump presidency and our ruling party losing three major metropolitan cities in the local government elections are all examples of the growing dissatisfaction of the general public who are seeking change from the current state of leadership. In South Africa, we watched as the Constitutional Court handed down a judgment stating that President Jacob Zuma violated the very same Constitution that he is mandated to protect. We also observed the shenanigans at SARS and the desecration of the National Prosecuting Authority. In 2016, we learned how our state – one that thousands fought for so that it could one day be free and belong to all who live in it – was captured by a few politically powerful individuals and their business cronies.

We celebrate whistle-blowers who have risked their reputations and jobs

The run up to the 2019 elections will be challenging on all fronts and as a country we have to stand by the founding principles of our democracy. We need to remember that our democracy does not end at the ballot box, but that the public has to be actively engaged and participate in all levels of government in order to hold our elected representatives, public officials, representatives of churches, sports bodies, civil society and the private sector to account. We need to become more vigilant and protect the institutions that support constitutional democracy in South Africa. It is also time to remind our leaders about the values of our Freedom Charter and reclaim our public institutions so that they do not belong to only the few. The years ahead might be tougher than the ones before, but organisations like Corruption Watch and other civil society movements are critical in demanding transparency and accountability from our leaders and highlighting the struggles of our people.

**I encourage you to support
these organisations as
we continue to build a
South Africa that is free
from inequality, poverty
and corruption.**



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We are committed to fighting corruption in South Africa and helping to create a corruption-free society by:

- Encouraging and enabling people to **expose corruption** by asking them to report their experiences and knowledge of corruption to us;
- Encouraging people to **refuse to participate in corruption**, through mass communication campaigns that inform the public about their rights and the negative consequences of corruption;
- **Building networks of corruption fighters** and creating an environment that does not tolerate corruption;
- Making every effort to ensure that those who engage in corruption will be **punished**, by referring our reports and investigations to law enforcement authorities;
- **Using our communications platforms and our partnerships** with the media to name and shame perpetrators of corruption;
- **Actively participating in public campaigns** to improve the policy and legislative environment; and
- **Gathering data so that we are able to identify corruption** hotspots and provide the public with information that enables them to hold their leaders to account.

Corruption Watch is a non-profit organisation launched in January 2012. We rely on the public to report corruption to us.

These reports are an important source of intelligence and they guide our fight against corruption. But the most important role played by the reports is that they come from the public and they enable us to speak with their voice. It is this that enables us to hold public and private sector leaders to account for their actions. Our aim is to ensure that the custodians of public resources act responsibly to advance the interests of the public at all times, and to reduce the opportunities for corrupt relationships.

We answer only to the people



The cornerstone of Corruption Watch's activities is a three-way communication process between the public, the organisation, and those who hold power within the public and private sectors. The public reports corruption to us, we confront leaders in the public and private sectors with these reports to advocate for change, and we report back to the public. Our three-way communication starts with the public and ends with the public.

Having a voice is a requirement of democracy. Corruption Watch's own communication platforms and its relationship with the mainstream and community media amplify the voices of the public to ensure that they are heard by those in positions of authority.

HOW IT WORKS

We encourage everyone living in South Africa to report corruption and actively promote accountable leadership.

We do this through:

- **Research:** We analyse our reports and other information to identify patterns and hotspots of corruption. We prepare research reports to expose and find solutions to systemic corruption and share these findings with the public, the government and the private sector;
- **Mobilisation:** We develop mass public engagement campaigns that encourage people to take a stand against corruption. Our campaigns involve the public, community groups and other civil society organisations;
- **Litigation and policy advocacy:** We engage in select litigation and policy advocacy to strengthen the legal environment for fighting corruption; and

- **Investigations:** We investigate selected reports of alleged acts of corruption, particularly those that have the most serious impact on our society. We submit our findings to the relevant authorities to take further action and we monitor the progress of each case. We work with the media to fully expose the corruption uncovered through our investigative work.

We are an accredited Transparency International chapter

Corruption Watch is an accredited chapter of Transparency International (TI), a global movement that seeks to stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of society. Having the status of an accredited national chapter means that Corruption Watch is now part of TI's network of just fewer than 100 countries and is TI's official reference point in South Africa.

We are not a substitute for government or business responsibilities

A key objective of Corruption Watch is to persuade government and business to take the popular dissatisfaction with corruption seriously and act accordingly. Indeed, the inadequate responses to corruption by these sectors largely influenced the formation of Corruption Watch five years ago. Clearly, we cannot rely on law enforcement or other arms of government alone to combat corruption. Confronting corruption requires an active and engaged public that is willing to hold to account the leaders who wield public power and who control public resources – as well as those in the private sector who supply and distribute these resources.



OVER PERCEPTIONS OF CORRUPTION

The annual TI Corruption Perceptions Index (CPI) ranks countries or territories by their perceived levels of public sector corruption.

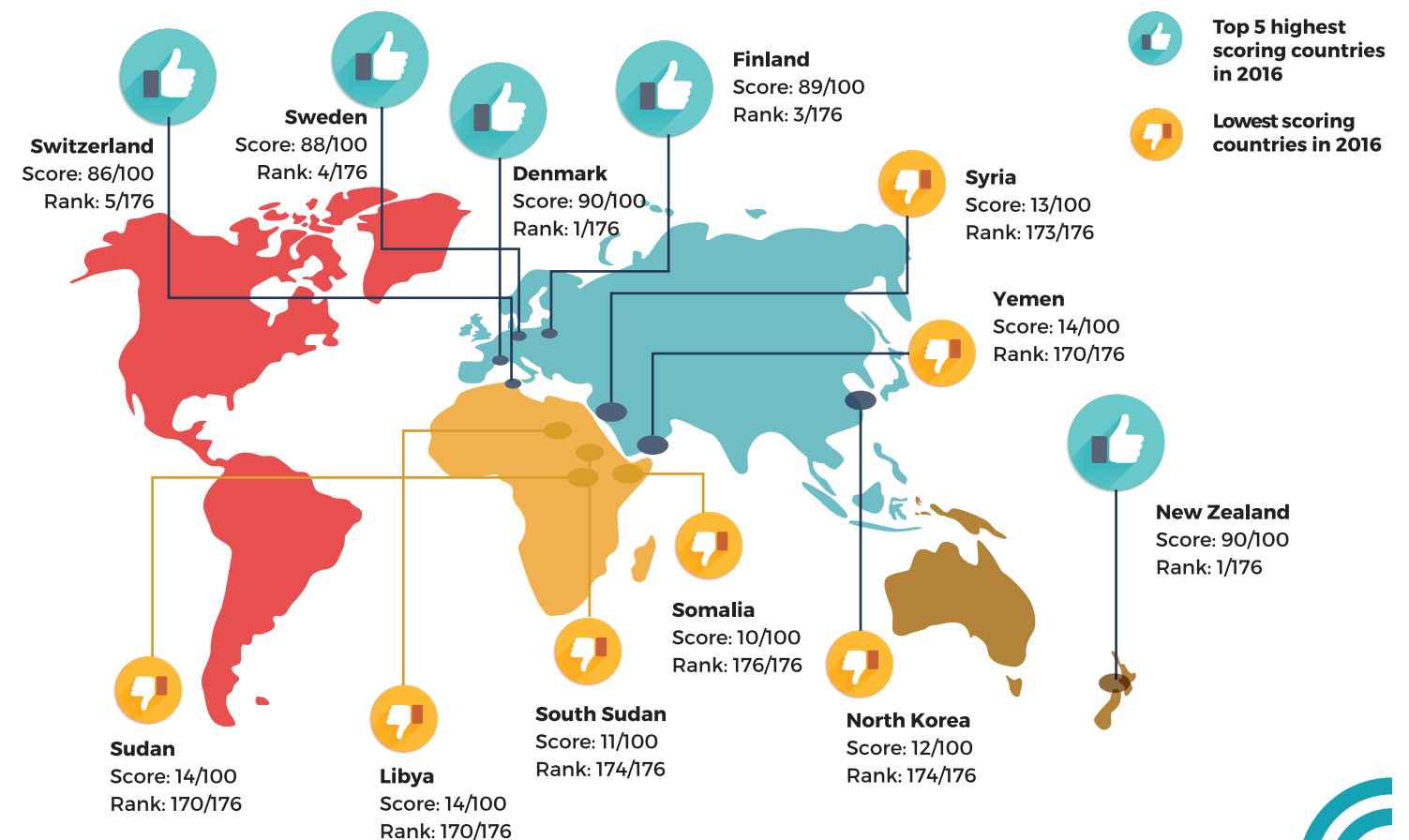
The lower the score out of 100, the more corrupt the country is perceived to be. **Over the last five years, South Africa's score and rank has improved, but not significantly.** In 2016, South Africa was ranked 64 out of 176 countries, with a score of 45/100.

We continue to note with concern that a score below 50 indicates a significant corruption problem in the country.

- **Rank** - a country's position relative to other countries included in the index
- **Score** - indicates the perceived level of public sector corruption on a scale of 0-100 in a country, where 0 means that a country is perceived as highly corrupt and a 100 means that the country is perceived as free from graft.

SOUTH AFRICA'S RANKING & SCORES

2012		2013		2014		2015		2016	
RANK	SCORE	RANK	SCORE	RANK	SCORE	RANK	SCORE	RANK	SCORE
69/176	43/100	72/177	42/100	67/175	44/100	61/168	44/100	64/176	45/100



THE NUMBERS

CORRUPTION COMPLAINTS RECEIVED SINCE 2012

14 972

4 391 corruption reports received in 2016

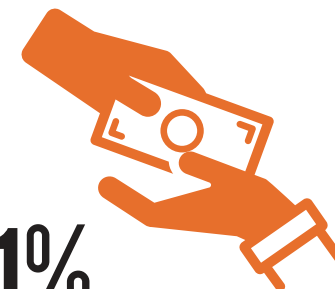


an average of
11 REPORTS
a day



2012 - 3 223 REPORTS • 2013 - 2 262 REPORTS • 2014 - 2 714 REPORTS • 2015 - 2 382 REPORTS

Corruption is the abuse of public resources or public power for personal gain



61%

of complaints received in 2016 are classified as corruption according to our definition

2016 HOTSPOTS



16% SCHOOLS



7% ROAD TRAFFIC



6% LICENSING



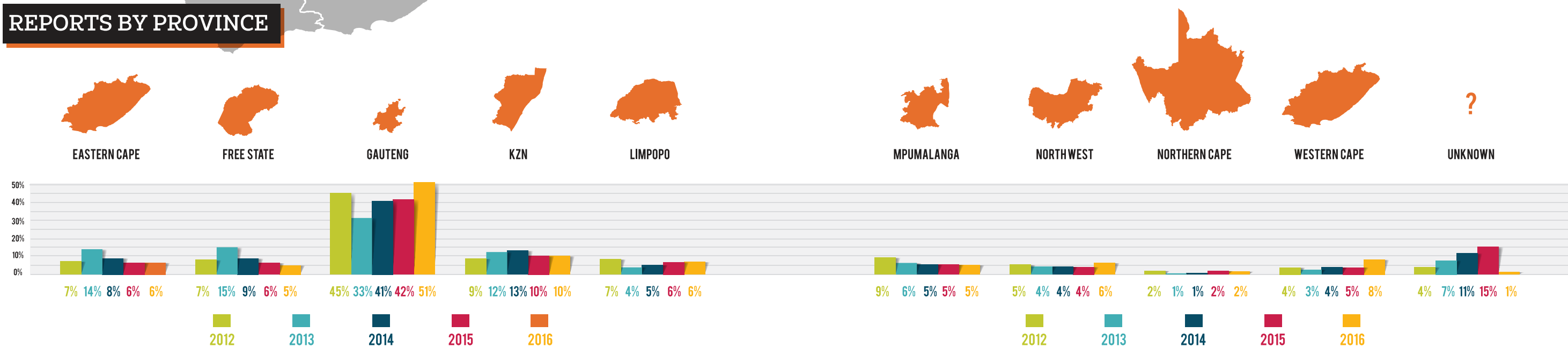
6% IMMIGRATION



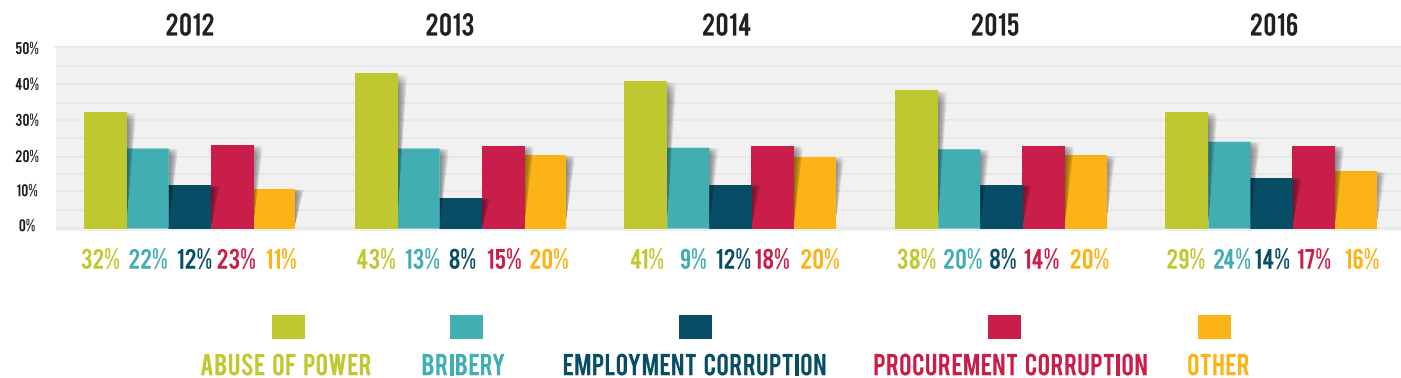
5% HOUSING

THE NUMBERS

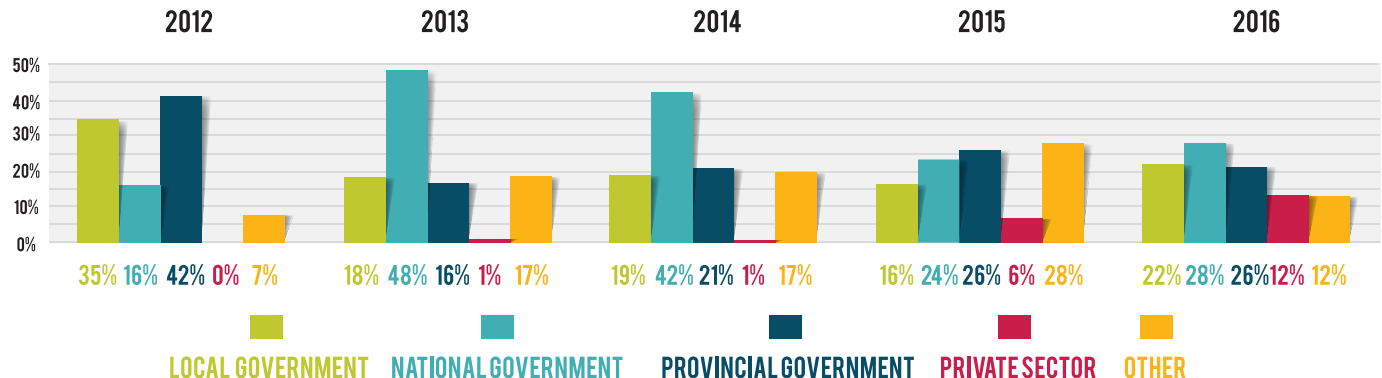
REPORTS BY PROVINCE



TYPES OF CORRUPTION REPORTED



INSTITUTIONAL LOCATION

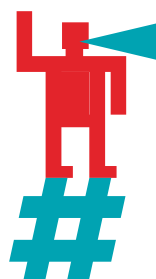


CAMPAIGNS

CHAPTER 4

HIGHLIGHTS

Over the past five years, we have developed interesting and innovative campaigns that encouraged the public to take an active stand in the fight against corruption. Our campaigns involve engaging with various stakeholders from all sectors of society in order to build a culture of anti-corruption.



MY HANDS ARE CLEAN

Our campaign for 2015 called on the general public, young and old alike, to commit to taking individual responsibility for their own personal actions in order to stop the scourge of corruption in society. **Our bribe detector encouraged the public to come clean about their past wrongdoings by asking them to participate in an anonymous polygraph test.** Those who were brave enough put their integrity to the test by admitting to previous corrupt activities and pledging to stay clean thereafter. We also developed a social media experiment that challenged the public to raise their hands against corruption and take a selfie using **#MyHandsAreClean**. The challenge went viral in South Africa, Pakistan and Jordan.

NO MORE TJO-TJO

In our first year we launched a campaign that encouraged the public to report bribery on the roads. **The No More Tjo-Tjo campaign educated the public about their rights and responsibilities when being pulled over by traffic officials.** The reports received from the public indicated that Sandton was a hotspot for officials from the Johannesburg Metropolitan Police Department (JMPD) to solicit bribes from road users. As a result, the South African Police Services conducted an undercover sting operation in Sandton and apprehended those from the JMPD who were asking for tjo-tjo.



LOSS OF PRINCIPLE

As part of our ongoing schools campaign, in 2015 we conducted 10 investigations into allegations of corruption in schools. In all 10 cases, the school principal was found to be the main culprit involved in corrupt activities. **Nine out of 10 cases dealt with principals abusing school funds for their own personal gain.** We brought this to light in our *Loss of Principle* report in which we also celebrated the whistle-blowers who exposed these principals. We featured their personal journeys and experiences as corruption fighters, and also provided recommendations on achieving good governance at schools.

UNMASK THE CORRUPT

In 2014/15, we participated in Transparency International's global Unmask the Corrupt campaign. **The aim of the campaign was to expose those, both in the public and private sectors, who attempt to hide their proceeds of corruption, crime and tax evasion through money laundering processes.**



CORRUPTION CRIPPLES SA SCHOOLS

ARE OUR SCHOOLS FOR SALE?

When Corruption Watch opened its doors five years ago, we noticed that we were receiving large volumes of reports alleging corruption in the management of school resources. As a result, in 2013 we launched our Schools Campaign to raise awareness about the reality of graft taking place in our public schools.

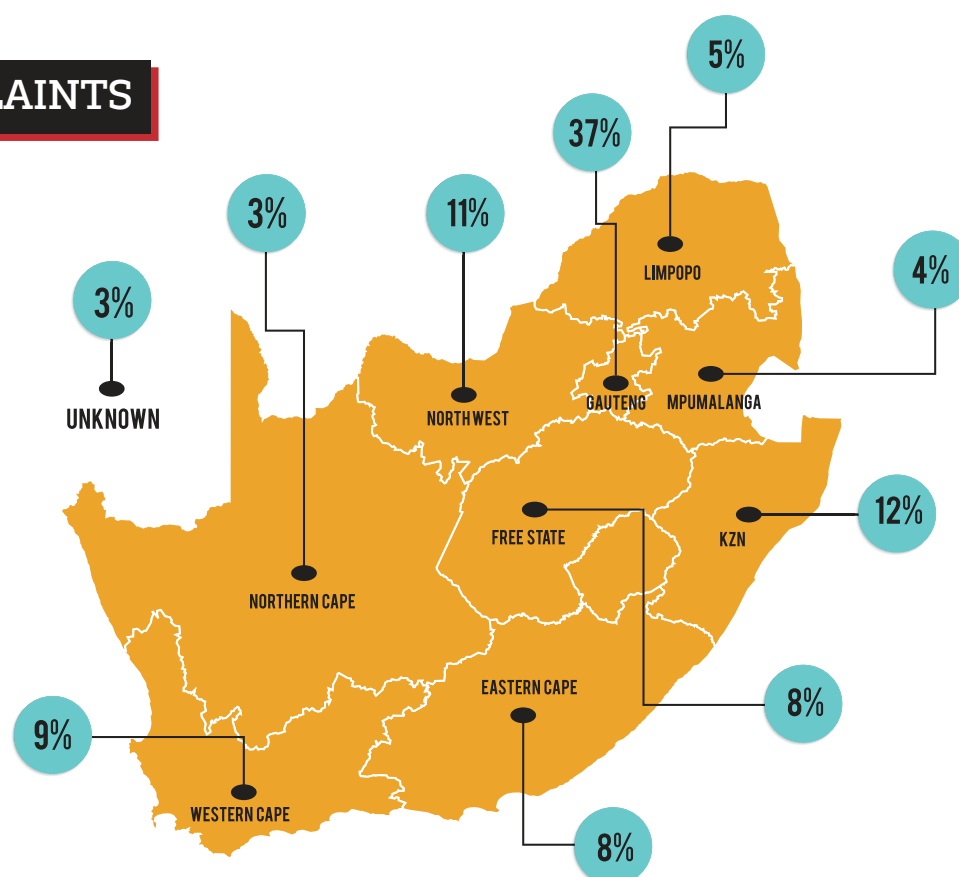
We have received a total of 1 431 complaints of corruption in schools and these reports from the public indicate that in most cases, school principals are the primary culprits involved in misusing school funds and resources.

ONE TEXTBOOK SHARED
BY 40 STUDENTS

CORRUPTION CRIPPLES SA SCHOOLS

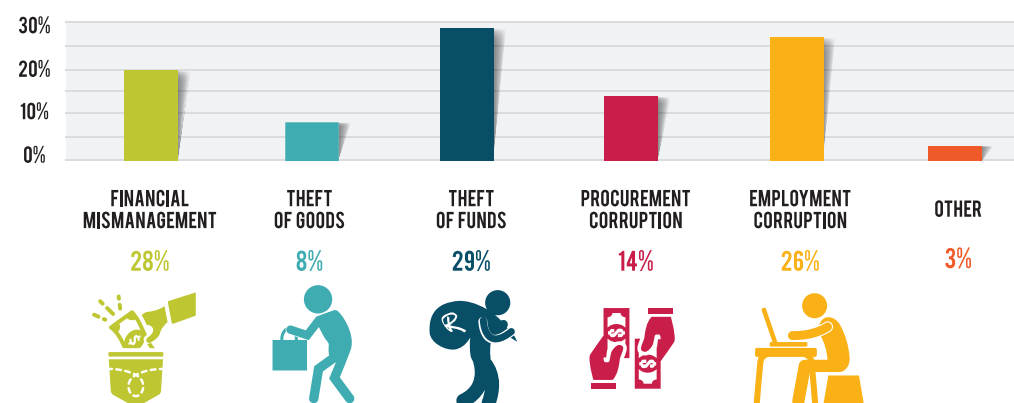
WHERE THE COMPLAINTS
CAME FROM

2016 DATA

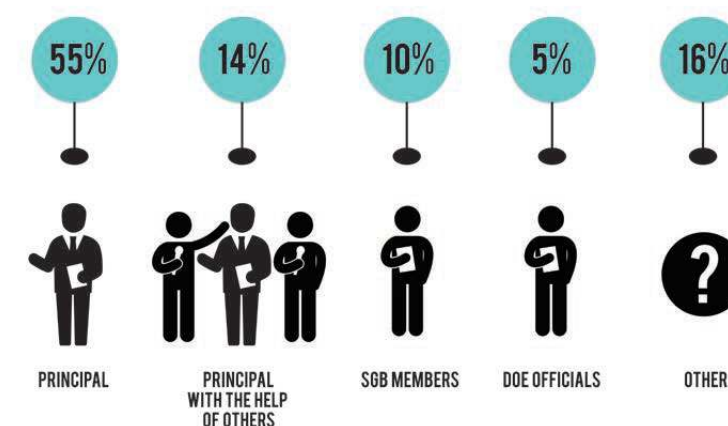


TYPES OF CORRUPTION

2016 DATA



CULPRIT INVOLVED



PIN-POINTING THE PROBLEM

Our reports and various stakeholder and advocacy engagements have highlighted the following problems in public schools across the country:

1. **School procurement policies** and procedures are misunderstood by school officials and parents;
2. **Provincial departments** of education do not have adequate systems in place to monitor the use/misuse of school funds;
3. **There are no proper mechanisms in place** to report corruption in schools to the authorities;
4. **The training** of school governing body (SGB) members is inadequate and sporadic;
5. **Parental involvement** in issues of school governance is low; and
6. **Consequences** for perpetrators are minimal. Often, principals or school officials who have been implicated in the mismanagement of finances are rotated to other schools where the graft will continue.

In 2016, Corruption Watch conducted capacity building workshops targeted at SGBs in various provinces. Our reports and engagements have indicated that the reason some principals are able to abuse school finances is because of the lack of training of SGB members. It is often the case that parents and representatives are unaware of their roles and responsibilities when serving on the SGB, and this allows culprits to abuse school resources without being detected. Our training took place in Limpopo, Eastern Cape and North West and involved equipping SGB members with the following information:

- The roles and responsibilities of the SGB;
- Understanding school procurement processes;
- Reporting corruption in schools; and
- Guidelines towards achieving a transparent and accountable school.

ASYLUM AT A PRICE

REFUGEES AND ASYLUM SEEKERS FACE HARSH REALITIES AT MARABASTAD

According to the reports received by Corruption Watch through its Project Lokisa initiative, corruption in the immigration system appears to be rife, particularly at the Marabastad Refugee Reception Office (RRO).

In a report titled *Asylum at a Price* and launched in November 2016, Corruption Watch and partners exposed officials from the Department of Home Affairs (DHA) and an interpreter for accepting bribes in exchange for processing refugee and asylum permits.

Project Lokisa was launched in June 2015 with the aim of addressing corruption experienced by foreign nationals who apply for asylum and refugee status at the DHA. South Africa's Constitution is one of the few in the world that outlines a commitment to providing a system that protects the human rights of both citizens and foreign nationals, and the DHA has a responsibility to offer an immigration process that protects the vulnerable and facilitates their integration into society. When this system is corrupted, it not only violates the human rights of foreign nationals who are seeking a safe haven from war and persecution in their home countries, but it also creates opportunities for economic migrants to bribe their way into the asylum system - which then fuels the preconception that foreign nationals are taking advantage of the country's resources.

Our partnerships with other civil society organisations enabled us to collect reports of corruption at the Marabastad RRO which led to a sting operation with video and photographic evidence implicating the following individuals:

1. **Gladwin Cameron Monareng (DHA official)** - solicited R3 000 from an undercover investigator for facilitating the asylum status documentation. Monareng also informed the investigator that he could organise a work permit at a cost of R15 000;
2. **Mtetho Macanda (DHA official)** - solicited R2 800 from an undercover investigator to provide services involving the facilitation of asylum status documents;
3. **Mutombo Odimegwu (interpreter)** - solicited R6 300 from an undercover investigator to provide services involving the facilitation of a passport and the arrangement of residency status.

Corruption Watch has laid criminal charges against these individuals and will continue to follow up on these investigations, as well as on steps taken by the DHA to address the issues that we have raised. We will continue to work with our partners to mobilise the public, exert pressure on officials, and support meaningful anti-corruption initiatives which are sensitive to the experiences and vulnerabilities of asylum seekers and refugees.

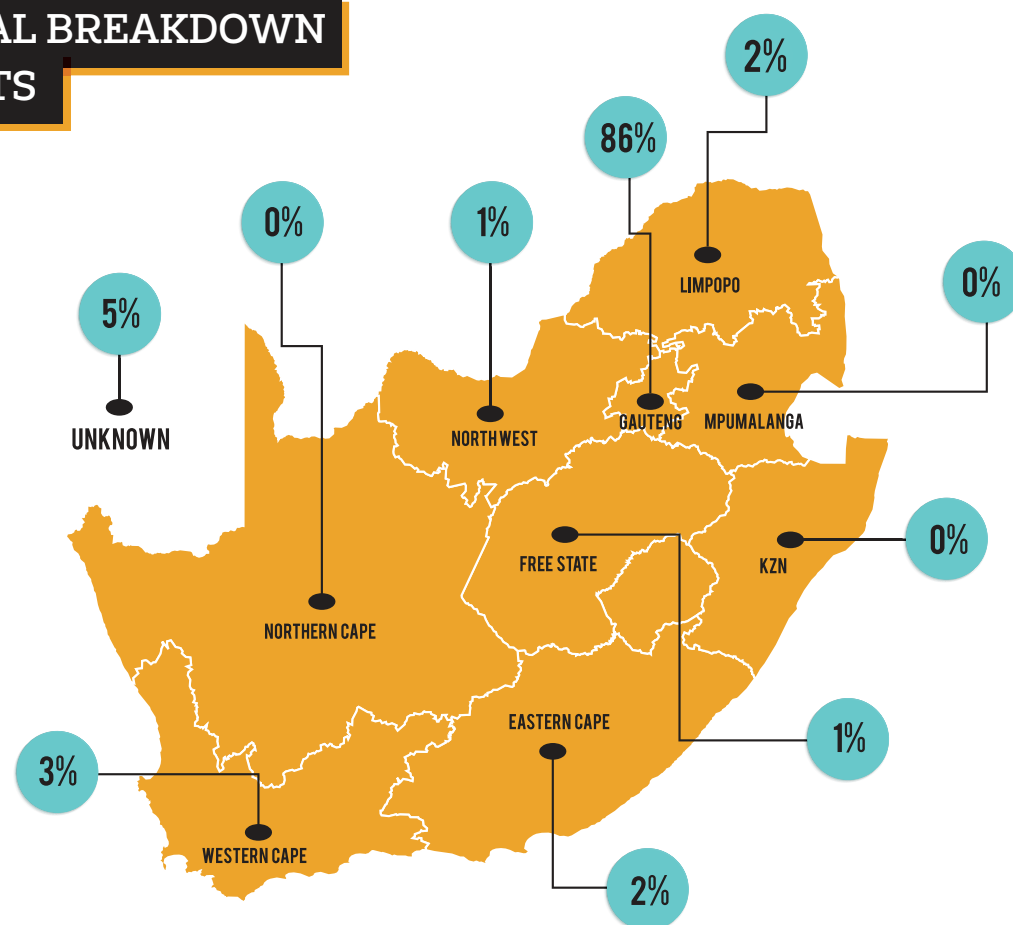
ASYLUM AT A PRICE

Currently the Department of Home Affairs is proving to be uncooperative and defensive. We are determined to make them see the error of their ways. We will continue our work to advance the realisation of the rights of all those who seek refuge in our country.

CORRUPTION REPORTS

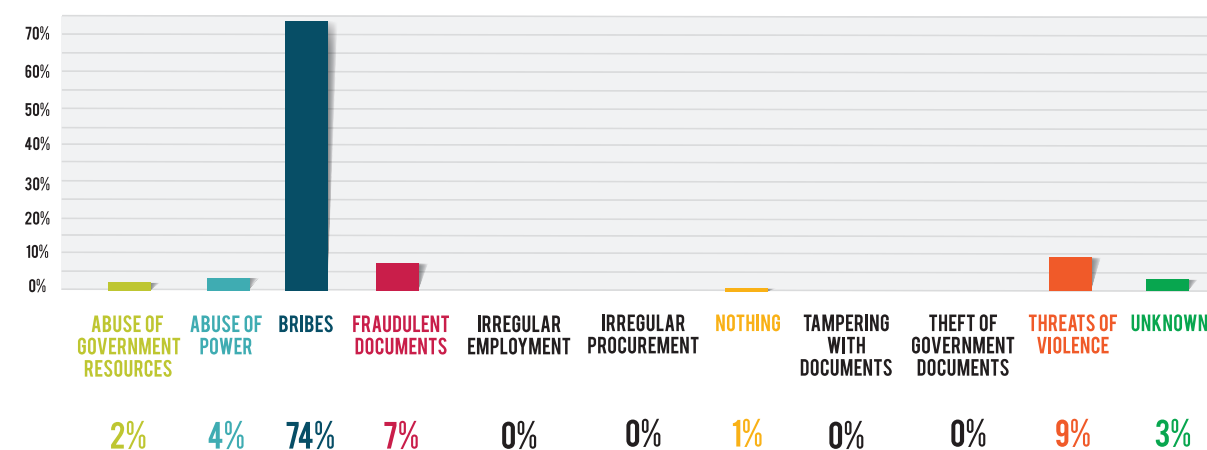
PROVINCIAL BREAKDOWN OF REPORTS

2016 DATA



TYPES OF CORRUPTION REPORTED

2016 DATA



GEOGRAPHICAL CONTEXT

2016 DATA



BUA MZANSI



PUBLIC GETS INVOLVED IN THE APPOINTMENT OF THE PUBLIC PROTECTOR

On 14 October 2016 Advocate Thuli Madonsela concluded her seven-year term as public protector. Ahead of the appointment of her successor, Corruption Watch launched a mass public awareness campaign called Bua Mzansi (seSotho for "Speak up South Africa"). The objectives of the campaign were threefold:

- 1. AWARENESS:** Our public awareness campaign highlighted the role of the Office of the Public Protector, its functions and responsibilities, and illustrated how the public can help to nominate candidates for the position;
- 2. PUBLIC PARTICIPATION:** We created avenues for the public to participate in the appointment of the new public protector through our online crowd-voting tool; and

- 3. TRANSPARENCY:** We campaigned to ensure that candidates were properly vetted, that they were qualified and suitable for the position, and that the entire process took place in the public spotlight.

BIG SHOES TO FILL

Madonsela earned widespread respect for her courage in investigating corruption and holding government to account without fear, favour or prejudice. Madonsela's unwavering commitment to fighting corruption has also earned her, among numerous other accolades, Transparency International's Integrity Award in 2014. The Office of the Public Protector is tasked with investigating improper practices at any level of government and in state-owned enterprises and statutory councils.

Whoever replaced Madonsela had to be someone strong, capable of acting with the highest integrity, and independent from political and executive interference. Through Bua Mzansi, Corruption Watch sought to play an active role in the process of appointing the new public protector by encouraging public participation – a right granted by the Constitution. We asked the public to nominate suitable candidates for the post and help scrutinise closely those who passed the nomination round.

CREATING AVENUES FOR PARTICIPATION AND TRANSPARENCY

We engaged extensively with the parliamentary ad hoc committee that was established to oversee the process, by making written submissions to ensure that

the appointment process was transparent and inclusive. This included publishing the qualifications of candidates, vetting them, attending parliamentary sessions, and allowing the public to comment on and/or object to certain candidates. These comments were taken into account when shortlisting and interviewing candidates.

The committee relied heavily on the vetting information that Corruption Watch provided when the time came for shortlists and interviews. The process has set a precedent for how future appointments to Chapter 9 Institutions are made. In September, President Jacob Zuma appointed Advocate Busisiwe Mkhwebane as public protector, based on a recommendation from Parliament.



TRACKING TRANSPARENCY

AN ASSESSMENT OF TRANSPARENCY IN SOUTH AFRICA'S PRIVATE SECTOR

In May 2016, Corruption Watch published a report titled *Transparency in Corporate Reporting: South Africa (TRAC)*. This research study evaluated the transparency of corporate reporting by the country's 36 largest publicly listed companies, as well as 14 unlisted businesses. Companies across the globe have legal and ethical obligations to conduct their business honestly. This too applies to the South Africa context and requires commitment, resources and the ongoing management of a range of risks – legal, political and reputational – including those associated with corruption. The implementation of a comprehensive range of anti-corruption policies and management systems is fundamental to efforts to prevent and remediate corruption within organisations.

This research initiative formed part of a project led by the Transparency International Secretariat and adopts the same methodology as the study *Transparency in Corporate Reporting: Assessing the World's Largest Companies*. The report is based on data collected or made available through company websites and is focused on three themes that are fundamental in achieving greater transparency:

1. REPORTING ON ANTI-CORRUPTION PROGRAMMES: Demonstrates a company's commitment to fighting corruption and increases its responsibility and accountability to stakeholders. In addition, a strong public commitment to a robust anti-corruption programme has a positive impact on a company's employees as it strengthens their anti-corruption attitudes;

2. ORGANISATIONAL TRANSPARENCY: Ensures that company structures are not opaque and allows local stakeholders to know which companies are operating in their territories, are bidding for government licenses or contracts, or have applied for or obtained favourable tax treatment. It also informs local stakeholders about which company networks these companies belong to and how they are related to other companies operating in the same country. Organisational transparency allows citizens to hold companies accountable for the impact they have on the communities in which they operate; and

3. COUNTRY-BY-COUNTRY REPORTING: The disclosure by a company, either publicly or in confidence to governments, of tax figures and other financial data on a country-by-country basis. It is a building block of corporate transparency and a tool for countering tax avoidance and evasion.

OVERALL BEST-PERFORMING COMPANIES



REPORTING ON ANTI-CORRUPTION PROGRAMMES – TOP 5 COMPANIES



ORGANISATIONAL TRANSPARENCY – TOP 5 COMPANIES



COUNTRY-BY-COUNTRY REPORTING – TOP 5 COMPANIES



LEADERS OF TODAY

The youth is a key target audience for Corruption Watch and we approach them on the basis that they are the leaders of *today*, not merely tomorrow. Young people lead the way in music and fashion, in the adoption and adaptation of new communications technologies, and in the very language that we speak. They are already proven leaders and great influencers, as evidenced by the #FeesMustFall movements, and there is every reason to expect that they will lead the way in the fight against corruption in South Africa. Moreover, the youth is the generation that is least likely to embrace conservative values, and most likely to believe that a fundamental change in values and ethics is possible.

PLATFORMS FOR INTEGRITY

Our Integrity Lectures provide a space for the youth to engage with public officials and prominent leaders on matters including corruption, transparency and accountability as well as various socio-economic challenges that currently plague young people today. In 2016, we brought together youth from across the country to engage on issues such as illicit financial flows in Africa in relation to the Panama Papers, as well as to participate in dialogues around the 2016 local government elections.

PASSING ON THE BATON

The Corruption Watch Youth Forum is a group of diverse young people who have come together to address corruption through innovative campaigns and driving anti-corruption behaviour change within their own communities. Our Forum members held community dialogues in Northern Cape, Limpopo and Gauteng, focusing on issues such as nepotistic appointments, sextortion, corruption in the licensing department, and formulating the role of youth in the fight against corruption.

THE ARGUMENT FOR A BETTER SOUTH AFRICA

For the past three years Corruption Watch has been hosting interschool debating competitions, called the Model Youth South Africa (MYSA) Schools' Challenge, in the Free State and, since 2016, in Limpopo.

We aim to expose learners to the dilemmas associated with democracy, accountability, transparency and corruption, using the tools of debate, policy making and public speaking.



WINNING SCHOOL 2016

Brebner High School - Free State
Omolemo Sechaba Lesia, Jones Mayekiso,
Atlegang Moroe, Bonolo Moloi,
Morero Moeketsi



BEST SPEAKER 2016

Ranah Sithole - Free State
Lenyora La Thuto Secondary School



BEST SPEAKER 2016

Pule Mmula - Free State
Welkom Technical High School



BEST SPEAKER 2016

Chicocho Vicente - Limpopo
Northern Academy Secondary School



BEST SPEAKER 2016

Tsoseletso Seabi - Limpopo
Ramathope High School



BEST POLICY ESSAY 2016

Kamohelo Kode - Free State
Lenyora La Thuto Secondary School



BEST POLICY ESSAY 2016

Gail Nkadimeng - Limpopo
Northern Academy Secondary School



BEST CAMPAIGN VIDEO 2016

Kelly Naftal & Naledi Ntima - Free State
Welkom Technical High School



WINNING SCHOOL 2016

Northern Academy Secondary School - Limpopo
Phuti Senyatsi, Chicocho Vicente,
Maphuti Mabba, Gail Nkadimeng
Thamaga Lediga



BEST CAMPAIGN VIDEO 2016

**Alsin Tlhako, Mosima Mofokeng,
Promise Mabule, Faith Mabutsela,
Phemelo Mmanakana**
Millenium Combined School
Limpopo



BUILDING AN INCORRUPTIBLE YOUTH



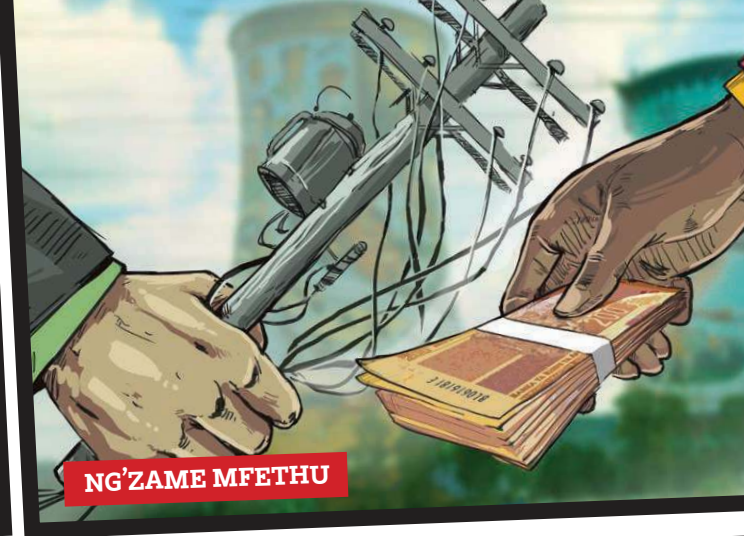
NUDGE, WINK



AHEM (throat clearing)



MAKE NICE, NG'ZAME



NG'ZAME MFETHU

WATSEBA MOS



WHEN YOU HEAR OR SEE...

IT USUALLY MEANS

AHEM (throat clearing)

An awkward silence accompanied by a quick look, a blank stare or an uncooperative attitude until you submit to an implied request. Not to be confused with a simple throat-clearing!

WATSEBA MOS

You know mos, times are hard. I'll make it easy for you if you make it easy for me.

FIFTY YA COLI

Fifty rand for a cold drink to help you out of a sticky situation.

NG'ZAME MFETHU

Hook me up my brother. If you know what I mean... wink.

NUDGE, WINK

A slight elbow in the ribs and an actual wink may go hand in hand here, followed by a grin, an open hand and a 'say no more'.

TJO

Whether it's R5 or R5 000, it's bribery. Finish and klaar.

MAKE NICE, NG'ZAME

Make nice, my brother and I'll make it nice for you...

GREASE MY PALM

Put it there, give me a loaded handshake and leave that note behind.

We held two marketing activations that encouraged the public, with the aid of a loudhailer, to shout out against corruption.

UNDERSTANDING THE LANGUAGE OF THE CORRUPT

Corruption comes in all shapes and sizes. But it is mostly whispered, hinted at or spoken in a lingo that we should all try to understand. So if you are confronted with an empty plain brown envelope, a wink and a smile, or an outstretched hand, **you need to speak up against it**. In 2016 we developed a list of the most common phrases used by public officials to solicit bribes. So...



TJO



GREASE MY PALM



FIFTY YA COLI

CHAPTER 4

CAMPAIGNS

LEARNING THE LINGO

& SUBMISSIONS

Since inception, Corruption Watch has shown its might by participating in prominent legal matters that highlighted high-profile cases involving corruption.

Since inception, Corruption Watch has shown its might by participating in prominent legal matters that highlighted high-profile cases involving corruption. We have also made policy submissions that lobby for strong anti-corruption practices. Some of our case highlights over the last five years include:

CORRUPTION WATCH VS CEO OF SASSA

In a case that is soon to be heard in the High Court, Corruption Watch brought to light the unscrupulous actions of the CEO of the South African Social Security Agency (SASSA) in March 2015. Corruption Watch claimed that the decision to pay Cash Paymaster Services – a company SASSA had contracted to administer social grants – an amount of R317-million without following supply chain management procedures was not only irrational, but illegal.

CORRUPTION WATCH VS GAUTENG DEPARTMENT OF EDUCATION & OTHERS

In March 2015, after exhausting all attempts to access information relating to Halfway House Primary School from the Gauteng Department of Education (GDE), Corruption Watch approached the South Gauteng High Court. The information related to an investigation that Corruption Watch was to conduct into the school. We asked the court to declare the GDE's refusal to grant us access to the information as unlawful and in conflict with the Promotion of Access to Information Act. Corruption Watch also requested the court to compel the GDE to allow it access to the information. In September 2015, Corruption Watch and the GDE reached a settlement agreement, and the GDE also confirmed that an investigation had been launched at the school.

HLAUDI MOTSOENENG VS DA & OTHERS

In August 2015, Corruption Watch intervened as a friend of the court (*amicus curiae*) in the Supreme Court of Appeal (SCA) in the case of Hlaudi Motsoeneng vs DA & Others. This case involved a determination of the nature and status of the public protector's remedial directions and powers, among other issues. Corruption Watch endorsed the public protector's argument that a proper interpretation of section 182 of the Constitution, read with the Public

Protector Act, gives her the power to take remedial action which cannot be ignored by organs of state. In its November 2015 judgment, the SCA agreed with the public protector and Corruption Watch and stated that in order for the public protector to do her job, other organs of state may not second-guess and ignore her findings and recommendations.

CITY OF CAPE TOWN VS SOUTH AFRICAN NATIONAL ROADS AGENCY (SANRAL) & OTHERS

In 2015, Corruption Watch joined a number of civil society organisations as a friend of the court in the SCA, following an appeal by the City of Cape Town against a decision made by the Cape Town High Court. The ruling related to papers that were filed by Sanral in response to a City of Cape Town application seeking to stop Sanral from introducing new toll roads in the Western Cape – which the roads company wanted to keep confidential. The *amici* submitted that the High Court judgment threatened the rule of open justice and could cause serious harm to the media, the fight against corruption and the independence of the judiciary. In March 2015, the SCA ruled in favour of the City of Cape Town and set aside the High Court order.

CORRUPTION WATCH & OTHERS VS PRESIDENT OF RSA & OTHERS

In August 2015, Corruption Watch and Freedom Under Law lodged a review application in the High Court of South Africa against the decision of the National Prosecuting Authority (NPA) to enter into a settlement agreement with the former national director of public prosecutions, Mxolisi Nxasana. The two organisations contended that the settlement agreement and its authorisation were unlawful and unconstitutional and should therefore be declared invalid and set aside by the North Gauteng High Court. The parties have also sought an order that Nxasana refund any money paid to him in terms of the settlement agreement. Nxasana has provided us with a number of documents which reveal that the president's Rule 53 record is incomplete. Once we obtain all information on which the decision was based, we will file a supplementary founding affidavit.



LITIGATIONS & SUBMISSIONS



EFF & DA VS SPEAKER OF THE HOUSE

In February, Corruption Watch appeared in the Constitutional Court as *amicus curiae* in the application by the Economic Freedom Fighters (EFF) and the Democratic Alliance (DA) to enforce the public protector's findings in the Nkandla report. Our focus in this matter was mainly on compliance by state officials and the president with regards to the public protector's remedial actions. Corruption Watch made oral submissions on the status and scope of the public protector's remedial powers and on how organs of state are required to respond to them. In March 2016 the Constitutional Court ruled that the public protector's remedial powers are binding and can only be set aside upon judicial review.

**NATIONAL SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS / MINISTER OF JUSTICE
AND CONSTITUTIONAL DEVELOPMENT AND
ANOTHER**

In August, Corruption Watch appeared in the Constitutional Court as *amicus curiae* in a case bought by the National Society for the Prevention of Animal Cruelty (NSPCA) against the justice minister and national director of public prosecutions. NSPCA argued that section 7(1)(a) of the Criminal Procedure Act created an arbitrary distinction between juristic persons and natural persons, which violates the rule of law and right to equality. Corruption Watch submitted that section 7(1)(a) can be interpreted to allow juristic persons to privately prosecute. The court found that NSPCA has the statutory power of private prosecution conferred upon it by section 6(2)(e) of the Societies for the Prevention of Cruelty to Animals Act read with section 8 of the Criminal Procedure Act. Our view is that allowing juristic persons to engage in private prosecutions where the NPA has declined to prosecute can be a critical way of combating corruption. It reduces incentives of those accused of corruption to seek to influence the NPA in an improper manner.

LITIGATION IN RESPECT OF THE FINDINGS OF THE SERITI COMMISSION ON THE ARMS DEAL

In October, Corruption Watch and the Right2Know Campaign (R2K) launched a legal challenge at the High Court into the findings of the Arms Procurement Commission (also known as the Seriti Commission) on the arms deal. Our litigation will be aimed at reviewing the Seriti Commission's report on procedural grounds, as it found that there were no irregularities in relation to the procurement of arms during the arms deal. This case is crucial in ensuring that the truth about the arms deal scandal is not whitewashed through a flawed commission, and to ensure that future commissions are not compromised by similar procedural and other irregularities.

HIGHLIGHTING CORRUPTION AT SARS

Corruption Watch issued a letter to South African Revenue Services (SARS) commissioner Tom Moyane concerning his failure to act decisively on the findings of a report from the Financial Intelligence Centre (FIC), detailing fraud and corruption by senior SARS employees, Jonas Makwakwa and Kelly-Ann Elskie. We are disturbed by the manner in which Moyane handled the case – for example, contrary to his assertion that the matter was an internal one and did not require reporting to the Directorate of Priority Crime Investigation (DPCI), his failure to take appropriate action is, in fact, unlawful in terms of the Prevention and Combating of Corrupt Activities Act (PRECCA). Moyane was obliged to report both Makwakwa and Elskie to the DPCI and failure to do so could result in imprisonment or a fine. In December 2016, Corruption Watch laid criminal charges against Moyane in accordance with PRECCA, because as an official who holds a position of authority, Moyane is obliged to report knowledge or even mere suspicion of corrupt transactions over R100 000 to the DPCI. Moyane also contravened the Financial Intelligence Centre Act when he disclosed the FIC report to Makwakwa and Elskie. The Act prohibits the disclosure of suspicious and unusual transactions to certain persons, particularly those implicated in the report. We have also laid criminal charges in respect of this contravention.

POLICY SUBMISSIONS

Corruption Watch aims to cast a light on, and combat, corruption in South Africa, but we also seek to improve the legislative environment that allows corruption to thrive. Our submissions on policy matters are aimed at reducing opportunities for corrupt practices and abuse of power to take place. In 2016 we made the following submissions:

- **Supply Chain Management Bill:** Corruption Watch is working with the National Treasury and other non-governmental organisations to provide input on the Supply Chain Management Bill and its regulations, which will be tabled in Parliament in April 2017.
- **Draft Public Administration Management Act Regulations:** In our submissions we focused on the legislative and regulatory framework around conflicts of interest and the declaration of interests by state officials. We will continue to monitor when President Jacob Zuma will sign the Act into force, which is a declaration that is long overdue.
- **Protected Disclosures Act:** We expressed concern in our submissions that the amendments to the Act were not comprehensive and left gaps in certain areas. We also raised concerns about the implementation of the bill and certain practical challenges which face employees and workers when making protected disclosures.



Corruption is one of the major challenges that confront South Africa, alongside other, arguably more serious problems.

MESSAGE FROM OUR EXECUTIVE DIRECTOR

Think of poverty, inequality and unemployment. Think of persistent racism. Think of our public education and health systems. Think of our dysfunctional criminal justice institutions and the parlous state of critical state owned enterprises like ESKOM.

And yet despite the gravity of these problems **corruption is front and centre of our heated public discourse. It was certainly the most powerful influence on the outcome of the local government elections. It accounts for persistent violent 'service delivery' protests. It is the root cause of the turbulence that is consuming the ruling party.**

So why then does corruption claim such an enormous share of public attention and outrage? Firstly, because corruption has a large role to play in each of these major problems. It is the poor who rely on public services. **When the users of our public health facilities are forced to pay for what are notionally free services, poverty and inequality increase; when the resources that are intended to support the purchase of equipment for public schools are diverted into the pockets of corrupt officials, teachers and school governing body members, poverty and inequality increase; when a child is deprived of her school lunch by a corrupt principal, poverty and inequality increase; when teaching jobs and policing jobs are sold to the highest bidder, poverty and inequality increase.** The sorry state of our police and prosecutorial services is entirely a consequence of unchecked corruption.

Secondly, **the public is particularly outraged by corruption because it is eminently preventable.** Poverty, inequality and unemployment are massive global problems. In our particular case, our apartheid legacy undoubtedly plays a significant role in the scale of these problems and in our difficulties in overcoming them. But this is not the case where corruption is concerned. To be sure the apartheid state was riddled with corruption. Indeed, government by the few, for the few is what defines both apartheid and corruption. But this is no longer the case. **When the people of South Africa, all the people of South Africa, voted in 1994 we broke decisively with the system of governance that characterised apartheid. And yet our country is ravaged by corruption.**

WHY IS THIS?

We could point to what are widely construed as **the two most important causes of corruption.** These are, firstly, **impunity enjoyed by the politically powerful and rich** that cascades down from the president to members of his cabinet, to senior public officials, to provincial premiers and MECs, to mayors and local government councillors. And, secondly, **rampant corruption in the leadership of key police units and in our prosecutorial authority** is what enables powerful perpetrators in both the public and private sectors to evade consequences for their actions. But this reasoning is circular. It's like saying that our corruption problem is caused by corruption.

What South Africa's experience over the past 20 years teaches us is that **in order to build an effective,**

corruption-free democracy we need something more than periodic elections. We need active, vigilant, demanding citizens who consistently and persistently hold their leaders to account. After our great victory in 1994, we relaxed our vigilance. This is the root cause of rampant corruption. And so, since our launch in 2012 **Corruption Watch has sought to encourage and enable an active and informed citizenry.**

We have much reason to be pleased with the fruits of our efforts. While we make no claim to be solely responsible for the increasing public pressure on those in public and private sector leadership, the increasing volume of whistle-blower reports that we receive, the sheer volume and the breadth of the public that has engaged with us both on our online media and in our face-to-face engagements, our presence in the mainstream and commercial media, all clearly verify the central role that we have played in building an informed and active citizenry.

Nor is our success in engaging the public in the fight against corruption based on spin. It is rather rooted in the success of our litigation and policy advocacy and in the impact of our investigations. It is inspired by the success of **our campaigns aimed at corruption in the management of schools' resources and in the treatment of refugees and asylum seekers, and in our campaign for transparency in the process of appointing a new public protector.** Our success is measured by the hostility that we have encountered from corrupt institutions and individuals. But it is also measured by the support that we have received from those many leaders in both the public and private sectors who are determined to stamp out corruption.

Our success is all down to you, the citizens and residents of South Africa. It is because your support enables us to speak with your voice that we have managed to achieve what five years ago seemed like distant, even unattainable, objectives.

In the coming years our principal objective is to significantly increase the volume, and improve the quality, of public participation. If we have managed to achieve what we have with 15 000 whistle-blower reports, imagine how much we would achieve with 50 000 reports. If we have managed to achieve what we have with the present extent of our media reach, imagine how much we would achieve if we extended our footprint, and in particular if we achieved much greater reach outside of the major metropolitan areas. In order to earn your support, we will continue to litigate, we will continue to press for better policies, we will continue to ensure that those who have engaged in corrupt and unethical conduct are exposed and we will demand that they are punished for their deeds.

WE LOOK FORWARD TO WORKING WITH YOU IN THE NEXT FIVE YEARS!

BUA MZANSI, BUA!!!

2017

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IN THE PAST FIVE YEARS, THE PUBLIC HAS DEMONSTRATED ITS WILLINGNESS TO SPEAK OUT AGAINST CORRUPTION

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Our campaigns targeted at increasing public participation around key issues, such as the appointment of the new public protector, have taught us the value of focused projects. Thus in 2017/2018 we will be mounting participatory campaigns around the National Anti-Corruption Strategy as well as the upcoming SGB elections.

However, these focused exercises will not detract from our general appeal to the public to report any and every experience of corruption. In the past five years, the public has demonstrated its willingness to speak out against corruption and we learned that people respond positively to seeing others do the same. This is why in 2017 we will be renewing our efforts to encourage people to report their experiences of corruption to us. We will continue to expose the perpetrators; **we will carry on identifying and publicising hotspots of corruption; and we will not stop confronting the authorities with the evidence the public presents to us.**

2017

The nine members of our board of directors guide our strategic mission and vision. Their task is to ensure that Corruption Watch meets its legal requirements, that the organisation is well run, is on a sound financial footing, and that all its constituencies are represented.



**MAVUSO MSIMANG:
CHAIRPERSON**

Mavuso is currently the CEO of the Oliver and Adelaide Tambo Foundation, and previously served as the director general of the Department of Home Affairs and as CEO of SANParks. His non-executive board directorships include the African Parks Network and the Peace Parks Foundation, and he is chairperson of the iSimangaliso Wetland Park, a world heritage site.



**DAVID LEWIS:
EXECUTIVE DIRECTOR**

David is the founder and executive director of Corruption Watch. He previously chaired the Competition Tribunal for a decade and was involved in the trade union movement, serving as the general secretary of the General Workers Union and national organiser of the Transport and General Workers Union. Lewis also directed the University of Cape Town's Development Policy Research Unit.



ALICE BROWN

Alice is an international human rights advocate and an expert on the use of the law for the public good. Her distinguished career has focused on civil rights litigation and social justice philanthropy, with an emphasis on institution building for NGOs. She is a member of the Council on Foreign Relations, a board member of Section27 and also a member of the advisory committees of the Wits Justice Project and of Lawyers Against Abuse. She is a former board member of Human Rights Watch, the Lawyers' Committee for Human Rights, the South Africa-United States Fulbright Commission, and an alumna of Common Purpose South Africa.



ADILA HASSIM

Adila is an advocate and director of litigation and legal services at Section27, and is a founding member of Corruption Watch. She is a member of the Johannesburg Bar and was admitted as an advocate of the High Court of South Africa in 2003. She has been published in law journals, health journals and newspapers, and has co-authored books on human rights and health law. She is a member of the National Association of Democratic Lawyers and an honorary member of the Treatment Action Campaign.



MARY METCALFE

Mary is an educationist and distinguished academic. She is a visiting adjunct professor at the University of the Witwatersrand (Wits) School of Governance, and the chairperson of the Open Society Foundation's Education Advisory Board (global). She is currently working on a large-scale system improvement in education in KwaZulu-Natal and Northern Cape.



ARCHBISHOP NJONGONKULU NDUNGANE

Archbishop Ndungane is the former Anglican archbishop of Cape Town and a recipient of the Order of the Grand Counsellor of the Baobab in Silver. Although he retired from religious service in 2007, he is still active in society. His current positions include president and founder of African Monitor, the executive director of the Historic Schools Restoration Project, the chairman of the Council of the University of Cape Town and a trustee of The Sunfoil Education Trust, which was recently formed by Cricket South Africa.



KATE O'REGAN

Kate is a former Constitutional Court judge who was appointed in 1994 during the transitional period to democracy. Currently, she is president of the International Monetary Fund Administrative Tribunal, a member of the World Bank Sanctions Board, an ad hoc judge of the Namibian Supreme Court, a visiting professor at Oxford University and an honorary professor at the University of Cape Town.



VUSI PIKOLI

Vusi is an advocate by profession and is currently the Western Cape police ombudsman. In 2005, he was appointed as head of the National Prosecuting Authority, a position he held until 2008. He is a former trustee of the Constitutional Court Trust and a founding member of the International Association of Anti-Corruption Authorities. He was a director of the forensic investigation division at SizweNtsalubaGobodo until February 2012. He is also an independent director on the board of Cricket South Africa where he chairs the social and ethics committee.



ZWELINZIMA VAVI

Zwelinzima is the former general secretary of the Congress of South African Trade Unions. In 2002, he was made a member of the International Labour Organisation's World Commission on the Social Dimension of Globalisation; four years later, he was elected to the International Trade Union Confederation's executive board and steering committee, and, in 2007, he was appointed as a member of the Local Organising Committee Board for the 2010 FIFA World Cup, as well as its audit committee.

THANK YOU & ACKNOWLEDGEMENTS



The Joffe Charitable Trust



Corruption Watch would like to thank and acknowledge the support of our funders and sponsors during the past five years, who ensured that our advocacy role was supported financially and logistically. As a result, we have been able to significantly contribute towards increasing the transparency and accountability of those in positions of power.

BERTHA FOUNDATION - Bertha Foundation supports activists, storytellers and lawyers that are working to bring about social and economic justice, and human rights for all. Bertha envisions a society in which activists build collective power, stories come from many different voices and law is used as a tool for justice. While powerful on their own, Bertha has learned that - if given the resources to connect and collaborate - their combined power is much greater than the sum of its parts. Bertha creates and responds to opportunities for its network to work together and exchange strategies to amplify.

BUSINESS LEADERSHIP SOUTH AFRICA - Business Leadership South Africa (BLSA) is an independent association whose members represent South African big business leadership and major multinational investors. It is a forum for South Africa's business leaders to exchange ideas on matters of current interest to the country's large companies and other business bodies and to facilitate an effective business dialogue with government and other stakeholders. BLSA includes the majority of South Africa's big business leaders. Members are committed to addressing the challenges of poverty, inequality and unemployment.

CLAUDE LEON FOUNDATION - The Claude Leon Foundation is a charitable trust established in 1963. It works in the fields of education, human rights and youth development.

The foundation supports non-governmental organisations at the forefront of defending democracy and better education in South Africa, and promoting good governance and effective service delivery.

FORD FOUNDATION - The Ford Foundation is an independent non-profit, non-governmental organisation that supports visionary leaders and organisations on the frontlines of social change. The foundation encourages initiatives by those living and working closest to where problems are located; promotes collaboration among the non-profit, government and business sectors, and strives to ensure participation by men and women from diverse communities and all levels of society.

FREEDOM HOUSE - Freedom House is a US government-funded non-governmental organisation that conducts research and advocacy on democracy, political freedom, and human rights. Freedom House was founded in October 1941.

GESELLSCHAFT FÜR INTERNATIONALE ZUSAMMENARBEIT (GIZ) - Since 2014, the contribution of the GIZ in the partnership with Corruption Watch has been in the form of technical assistance and training. GIZ assists the German government in achieving its objectives in the field of international co-operation.

HEINRICH BÖLL STIFTUNG (HBS) - The Heinrich Böll Foundation is a political institution affiliated to, but independent from, the German Green Party. The foundation's foremost task is to support citizen participation that seeks to deepen democracy and social justice. This includes advocacy and action to uphold human rights, promote pro-poor development that is environmentally sustainable, realise gender equality, as well as protect the freedom of individuals against excessive state and economic power. The foundation works in more than 30 countries worldwide.

HIVOS - The Human Institute for Co-operation with Developing Countries (Hivos) is an international development organisation guided by humanist values. Together with local civil society organisations in developing countries, Hivos wants to contribute to a free, fair and sustainable world.

THE JOFFE CHARITABLE TRUST - The Joffe Charitable Trust (set up by Joel and Vanetta Joffe in 1968) supports development in the developing world, primarily in Anglophone sub-Saharan Africa.

MAKING ALL VOICES COUNT - Making All Voices Count seeks to harness developments in technology and innovation to promote transparency, fight corruption, empower citizens, and harness the power of new technologies to make government more effective and accountable. The organisation works in Kenya, Uganda, Tanzania, Ghana, Mozambique, South Africa, Nigeria, Liberia, Bangladesh, Pakistan, Indonesia and The Philippines.

The programme is a partnership between three organisations, namely: Hivos, Ushahidi and the Institute for Development Studies (IDS), based at the University of Sussex in the UK.

THE MARY OPPENHEIMER & DAUGHTERS FOUNDATION - Rachel Slack supported Corruption Watch in 2016 through the Mary Oppenheimer & Daughters Foundation.

MILLENNIUM TRUST - The Millennium Trust is a private and independent trust that supports innovative approaches to high-quality education in low income communities, and sustaining inclusive economic growth and independent democratic institutions in South Africa. The trust also supports efforts to celebrate what is good and exciting about South Africa.

OPPENHEIMER MEMORIAL TRUST - Established in 1958 by the late Harry Oppenheimer, the Oppenheimer Memorial

Trust has a long tradition of investing in education. It also supports the arts as well as public benefit organisations that are actively engaged in cutting-edge policy work and social justice initiatives.

OPEN SOCIETY FOUNDATION - Open Society Foundation for South Africa is part of the international Soros Foundations Network. It is a grant-making foundation that encourages, among other things, new approaches to an open society in South Africa, supporting activities in the fields of human rights, public and private sector accountability, justice, information and expression.

PROSPERITY FUND PROGRAMME - The Prosperity Fund is the Foreign and Commonwealth Office's dedicated annual fund supporting prosperity work overseas. Through targeted projects, it aims to support the conditions for global and UK growth: openness, sustainability, opportunity and reputation.

RAITH FOUNDATION - The Raith Foundation aims to further a just and fair society in which the state and the private sector are both held accountable for their actions. Since 2010, the foundation has implemented a social justice programme that supports projects that provide access to justice for marginalised people, improve governance and promote accountability through the media and citizen participation.

SIGRID RAUSING TRUST - The Sigrid Rausing Trust is a grant-making foundation that focuses on supporting human rights globally. Since being founded by Sigrid Rausing in 1995, the trust has donated approximately £250-million to human rights organisations worldwide.

SOCIAL JUSTICE INITIATIVE - Social Justice Initiative partners with philanthropists and civil society organisations to raise awareness and funds for projects that aim to influence systemic change by advocating for fair distribution and access to constitutional rights, opportunities, public resources and services.

corruption watch



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