

# THE WRITING IS ON THE WALL

ANNUAL REPORT 2019

corruption  
watch





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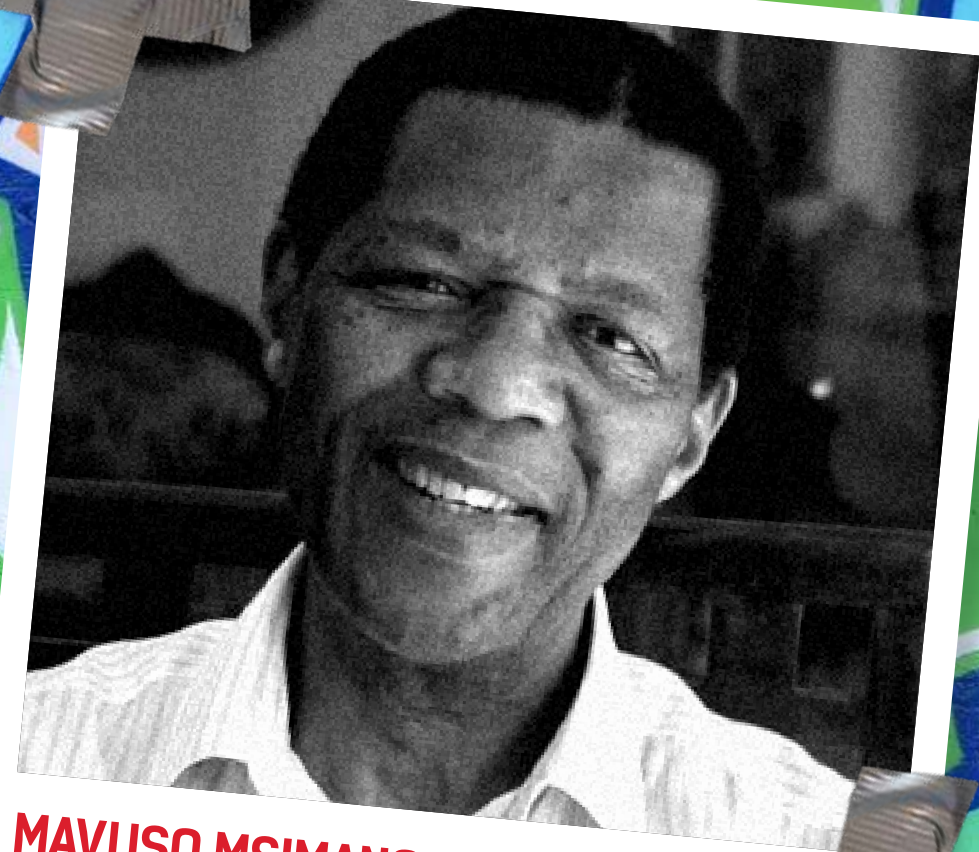
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# MESSAGE FROM BOARD CHAIRPERSON



**MAVUSO MSIMANG**

Last year I concluded my chairman's message with an urgent plea "...to usher in a new order that gives us the government and democracy that we deserve, and of which we can be proud". A few months after our annual report was published, South Africans went to the polls to cast their votes in the sixth democratic elections. We can all be proud that, once again, the conduct of the elections conformed to the highest standards required by this landmark event in the life of any democracy.

The electorate, once again, returned the incumbent governing party, the African National Congress, to power albeit with a significantly reduced majority. In my view the party's majority was reduced because of the complicity of its erstwhile leadership in corruption. And it managed to retain majority support because its current leadership candidly acknowledged that it had let the country down, in particular by allowing the state, our state, to be captured by a toxic combination of moneyed and political interests. It promised the country a 'new dawn',

one characterised by a resolute fight against the scourge of corruption that nearly brought us to our knees.

One year since I penned my plea for democratic and clean governance, we have seen some progress towards realisation of that goal. However, we have also seen evidence of backsliding and of powerful resistance to reform and reconstruction. We have also come to understand the devastating scale of the damage inflicted upon key public institutions. Above all, we understand that there remains much to be done. The struggle for democracy and clean government is far from over!

## **NATIONAL ANTI-CORRUPTION STRATEGY**

In his recent State of the Nation Address, President Ramaphosa reported on progress made by a task team composed of government and civil society leaders towards formulating a national anti-corruption





strategy (NACS). He promised to launch the strategy by mid-2020. Corruption Watch has been, and remains, closely involved in the development of this strategy. We are convinced that it constitutes a solid foundation for tackling a problem as complex and as pervasive as rampant corruption.

While the president's decision to announce the imminent release of the NACS in his state of the nation address is a clear and necessary signal of his personal commitment to the strategy, he emphasised that only a 'whole of society' approach was actually capable of eliminating corruption. We concur with this viewpoint. We too believe that, if it is to bear fruit, all of society needs to be mobilised in support of this strategy. We commit to playing our role in efforts to inform and mobilise the public. However, we are equally persuaded that government bears ultimate responsibility for the implementation of the strategy, and, as such, will be held accountable by the South Africans that we and others mobilise in its support.

The development of a whole-of-society, strategic approach to tackling corruption builds on other gains made since the removal of the corrupt Zuma administration. These include the removal of corrupt leadership at the Hawks, Crime Intelligence, the National Prosecuting Authority (NPA) and South African Revenue Service (SARS), and their replacement by people of proven integrity and competence; the removal from cabinet of some of the worst of the Zuma-era cabinet ministers; the establishment of the special unit in the NPA and the tribunal in the Special Investigating Unit; the establishment of the commissions of enquiry into state capture, Sars and the Public Investment Corporation; the removal of corrupt executives at key state-owned enterprises; the arrest and prosecution of reasonably prominent political leaders such as Bongani Bongo and Zandile Gumede; the greater openness of government leaders to

work with civil society organisations. All of this demonstrates a commitment and will to tackle corruption.

On the other hand are the appointments of several ministers and deputy ministers with dark clouds over their heads; the presence in the governing party's leadership, including its parliamentary caucus, of some of the leading perpetrators of state capture; the failure on the part of the president to sign the Political Party Funding Act into operation; the president's inexplicable decision to sign into effect the clearly unconstitutional, apartheid-era Traditional and Khoisan Leadership Act; the continued support by leading members of the governing party for the discredited public protector. All of this is evidence of hesitant leadership, leadership still beholden to corrupt, reactionary interest groups, leadership that is unwilling to give effect to the wishes of those who voted it into power.

This contempt for the fundamental norms of democracy is not confined to the governing party. The thuggery that increasingly characterises the conduct of the EFF on public display during the state of the nation address; the increasingly strident attacks on the media, the judiciary and civil society organisations; the failure of all the big parties to put aside their narrow interests in favour of ensuring the effective governance of our metropolitan areas. These all signal the immaturity, the hollowing out, of our young democracy.

When our political leaders conduct themselves in this manner and get away with it, is it any wonder that amoral private sector leaders seize the opportunity to further feather their own nests with no fear of retribution? We have witnessed private sector corruption on a grand scale – names like McKinsey, KPMG, Cash Paymaster Services, Steinhoff, Tongaat Hulett, all belong in the rogues' gallery that has come to dominate South Africa's public life.

## WHAT IS TO BE DONE? I SUGGEST THE FOLLOWING PRIORITIES

Firstly, focus on those institutions and sectors whose goods and services are vital to the interests of the poorest South Africans and the most marginalised communities. Fix Eskom, Transnet and Prasa. Eradicate corruption in the provision of healthcare services and policing services. Take on those who have robbed mining communities of the royalties to which they are entitled. Tackle corruption in provincial and local government, those tiers of government which are most directly responsible for providing for the most basic needs of our people.

Secondly, punish perpetrators of corruption. While it is important to recognise the particular damage that state capture did to our criminal justice agencies, the fact is that corruption will not be effectively tackled, and the public will not be convinced of government's will to do so until we see some of the most high profile perpetrators of corruption, both from the public and private sectors, in the dock. Only when the risk of engaging in corruption is raised will would-be perpetrators be deterred.

Thirdly, fix our democracy. Regulate party political funding, including funding for electoral contests for leadership positions in political parties. Remove corrupt parliamentarians. Show zero tolerance for those who brazenly treat our courts with contempt. Support those journalists and civil society organisations who have been at the forefront of the challenge to corrupt government.

And finally, to all those who have supported Corruption Watch and who believe that we are entitled to a government and private sector who show us respect: stay angry, participate in civic and political life, hold those in authority to account. And remember that governments are only as good as their citizens are demanding!





# MESSAGE FROM THE EXECUTIVE DIRECTOR



**DAVID LEWIS**

Corruption Watch has spent much of the eight years of its existence, in the era of state capture. Although there were always pockets within the political leadership and the ranks of public officials who were supportive of our work, our relationship with the state throughout that period was overwhelmingly adversarial and antagonistic.

The same may be said of our relationship with the private sector. Here too, while we encountered many private sector leaders who were concerned about the quality and the ethics of our political and public leadership, and of the complicity of leading corporations and executives in fraud and corruption, our relationship with the private sector during this period was characterised by our conflicts with the likes of McKinsey, Cash Paymaster Services, and KPMG.

Much has changed since then. In particular, the demise of the Zuma administration, an outcome with which we are proud to have been associated, ushered in a new administration that has successfully

persuaded the electorate of its commitment to confront corruption and whose leadership has consistently articulated its support for 'social compacting' – partnerships between government, business, labour and civil society – as its preferred mode of governance.

This change in the political environment has had a predictably profound effect on our strategies and also on our day-to-day work. Strategically, it has enabled us to focus on those sectors and activities where our efforts would impact most powerfully on the realisation of basic human rights and social justice.

It is this shift in focus that has dictated our intensive engagement with fighting corruption in the provision of healthcare and policing services, and with the dire predicament of South Africa's impoverished and marginalised mining communities. The very right to life is undermined by deficiencies in the provision of healthcare and security and if a society is to be judged by the manner in which it treats its most disadvantaged



THIS BIGGEST BATTLE IN ALL OUR HUMAN LIVES

IT ALL COMES DOWN TO TODAY

IT'S EITHER WE UNITE AS A NATION OR WE ARE

GOING TO CRUMBLE, TJOTJO BY TJOTJO

EXTORTION BY EXTORTION, TILL WE'RE FINISHED







communities, then the imperative to help promote social justice and human rights for those who work and live in South Africa's mining communities is overwhelming.

This consideration also dictates our particular concern at the manner in which refugees and asylum seekers are treated by the authorities. Similar concerns inspire our work on corruption in the water sector, in the land reform process and in the development of our work on gender, youth and whistle-blowers.

We have also attempted to absorb the lessons of the state capture era, to identify the vulnerabilities in our legal and policy framework that enabled state capture and, then, to advocate for policies that would plug these gaps. This is manifest in our work on the criminal justice system and in our campaign for processes governing the appointment of public sector leaders that are transparent with decisions based on clear merit-based criteria.

A second lesson that emerged from the state capture era is the central role played by key private sector firms and professions in facilitating public and private sector corruption. These include the legal and auditing professions, tax advisers, management consultants, real estate agents and other luxury good purveyors. In our work with the private sector, we expect to focus increasingly on these facilitators of corruption.

2019 has also seen particularly significant gains from our strategic litigation. Our successful reviews of the Seriti Commission, which had whitewashed the corrupt arms deal, and of the South African Social Security Agency's decision to, yet again, favour Cash Paymaster Services with a massive unlawful payment have both generated important legal precedent. Leading legal firms and practitioners have generously given of their

time and expertise in our efforts to advance social justice through the courts.

The Ramaphosa administration took office promising to engage productively with civil society organisations. During 2019 important strides were made in honouring this commitment. The joint government/civil society reference group charged with developing a national anti-corruption strategy is an outstanding example of the gains to be realised through co-operation, as is the establishment, under the leadership of the Special Investigating Unit, of the Health Sector Anti-Corruption Forum. This latter body has provided us with a platform to which we can refer reports of corruption in the provision of healthcare services and monitor progress in dealing with these reports.

However, while we will co-operate with government in rebuilding the broken South African state, there is no room for complacency. This government, like any other, must be held to account. The new administration has made some appallingly retrogressive decisions – the passing of the Traditional and Khoisan Leadership Act stands out; the damage wrought by state capture to all public institutions, ranging from the smallest schools to our giant state-owned enterprises, has been more severe than anyone could have predicted and, starting with those public institutions that deliver basic goods and services, these have to be turned around; and our decimated criminal justice institutions have yet to prosecute high ranking perpetrators of corruption in the ranks of politicians, public sector officials and private sector executives.

And we have to recognise the strength of the fightback from those who feasted on public resources and abused public power for so long. The presence in Parliament of some of the most brazen perpetrators of corruption is an insult to our democracy; the destruction of the Office of the Public

Protector is of huge concern to all of us who appreciated the support of a competent, independent and courageous public protector in the dark days of state capture; and the attacks on civil society, the judiciary and the media have, if anything, intensified as corrupt, anti-democratic elements in the state and the private sector, and in the ranks of political parties, attempt to recapture the state.

And so, while we will co-operate with those who oppose corruption and who seek to repair the damage done by those moneyed and political interests who captured the state, we will maintain our vigilance against those of who would seek to reverse our gains. That, above all, is our promise to those who have supported us so resolutely.

None of the successes of the past year would have been possible without the guidance and oversight provided by our board and without a dedicated, highly committed staff. Civil society organisations can be difficult to govern, manage and work in. Resources are scarce and demands are unlimited; our enemies are ruthless and vicious. However, I am confident that the wisdom of the board and the dedication of our staff will, once again, propel us forward in the coming year.



## INTRODUCTION

# THE WRITING'S ON THE WALL!

The 2019 news cycle across the world was characterised by dramatic, sometimes devastating events – both natural and people-driven – for the person on the street. In South Africa, our own experiences mirrored many of those on the global stage.

**“IN 2019, THE WORLD’S BILLIONAIRES, ONLY 2,153 PEOPLE, HAD MORE WEALTH THAN 4.6 BILLION PEOPLE”**

IN ITS REPORT ENTITLED *TIME TO CARE: UNPAID AND UNDERPAID WORK AND THE GLOBAL INEQUALITY CRISIS*, RELEASED BY OXFAM INTERNATIONAL IN JANUARY 2020, THE SHOCKING REALITY OF INEQUALITY IN THE YEAR 2019 IS REVEALED, AS SHOWN BY THE ABOVE STATISTIC  
[HTTPS://WWW.OXFAM.ORG/EN/RESEARCH/TIME-CARE](https://www.oxfam.org/en/research/time-care)

While corruption is at the heart of many of these events, we at Corruption Watch have learned, after eight years into our journey, that people, despite their own circumstances and the failure of those with power to honour any kind of social contract, will continue to tell their stories of corruption, and to seek justice and accountability. We have been humbled by the number of people willing to risk everything by uncovering corrupt systems and individuals, and to make their mark in the movement to bring about real and lasting change.

The stories that we have heard and witnessed are devastating, unjust, and a blight on our society, but they only make us more determined to pursue the rights of ordinary people and tip the scales towards a more just, equal and transparent society. Amidst the stories of shady dealings at the highest levels of business and government, and the blatant disregard for the quality of life of the majority, there is still a clear quest for creating a new order in South Africa.

And there are other rays of light, as our multi-sectoral approach and our decision to join constructive efforts to rebuild key institutions and promote transparency and integrity begin to bear fruit.

We cannot ignore the impact of corruption in relation to all of these pressing challenges. This is evident in the fact that entire communities are excluded from the benefits of the mineral wealth beneath their feet, denied safety in their own homes and communities due to, and often at the hands of, corrupt and ineffectual policing, refused life-saving care and medication because resources have been diverted, sold, or not delivered, or are shut out of employment opportunities due to cronyism, nepotism, and jobs and contracts for pals. Entire institutions were captured and resources

plundered to feed the avaricious greed of a few unprincipled individuals with no commitment to improving the lives of the many.

This is our reality, but we have an important choice to make to change the future trajectory of our country. Either we get real about addressing the shockingly high – and increasing – levels of inequality, entrenched poverty and unemployment in our country, and dismantling the systems of patronage and corruption, or we face the consequences of a never-ending spiral of degradation, despair and hopelessness for our people.

That is not what we signed up for! We will do whatever it takes to rebuild our society by continuing to build a strong and viable movement, and to blast our messages across the walls, newspapers, airwaves, and corridors of power and privilege. We won't let up, and the public has shown that they will not either!

Facing corruption head-on may not be the answer to all of our woes, but it has a significant contribution to make in dismantling the inequality that surrounds us, and in disrupting the balance of power, so that people are honoured, respected, included and able to live in dignity.



CORRUPTION WATCH

# CORRUPTION WATCH IS:

An independent civil society organisation launched in 2012 in response to the spiralling corruption in South Africa.

The local chapter of Transparency International, a global movement with one vision: a world free of corruption.

An organisation with the overriding goal of encouraging and enabling public participation and activism to prevent, expose, report and combat corruption.



Not beholden to business, government or any other sector in our operations; we hold both government and private sector to account.

Funded primarily by philanthropic institutions in the social justice sector.

An organisation committed to a human rights approach to the impact of corruption on society.

CORRUPTION WATCH





## CORRUPTION WATCH

# How we work!

## OUR ACTIVITIES FALL WITHIN THE FOLLOWING WORK STREAMS:



### CAMPAIGNS

Our campaigns emerge out of the number of reports received in relation to a particular sector or type of corruption, and focus on a specific theme as a result. Our current campaigns include corruption in the public healthcare service, the police service, and the mining sector. Our choice of sectoral focus for 2020 is ideally suited to advancing the human rights orientation in our work.



### REPORTS

The reports received from whistle-blowers and members of the public remain at the core of our work. They assist us in identifying patterns and hotspots of corruption in the country, in identifying campaigns, and in guiding investigations and policy advocacy. In short, they enable us to speak with, and amplify the voice of the public.



### POLICY ADVOCACY

The reports that we receive help us to identify loopholes and gaps in public policy that allow corruption to manifest in, and weaken, our state institutions.



### INVESTIGATIONS

Due to our limited capacity and resources, we only investigate a number of carefully selected reports so that we may give them our full attention when pursuing forensic investigations.



### GOVERNANCE

Good governance is a major point of focus in our work. To this end, we are helping to build good governance in other organisations, companies, and the government by providing assistance in the form of workshops, capacity-building sessions, discussions, anti-corruption programmes and other events.



### PUBLIC EDUCATION

We believe that people will feel empowered to tackle corruption if they have a better understanding of what forms it can take, who commits it, and how it affects them. Whether employees, state officials or citizens, they will be able to take a stand if better informed.



### LEGISLATION/POLICY SUBMISSION

We contribute towards the improvement of the legislative environment, through submissions into processes and policies that result in fair, effective laws that benefit all South African residents. Our interventions focus on creating a buffer against corruption, and increasing access to justice, such as the Prevention and Combating of Corrupt Activities Amendment Bill 2017, the Protected Disclosures Act, ensuring community rights in the Traditional and Khoi-San Leadership Bill, and the Draft Regulations to the Refugees Act.



### LITIGATION

We choose our battles by considering our resources and the potential impact of our participation. If our participation in the case would be in the public interest as far as the fight against corruption is concerned, we will contribute to it.



### OUTREACH/EVENTS

Part of our public education work involves engaging on a one-on-one basis with communities, students, activists, healthcare workers, school governing bodies and others. Through these activities, we inform people of their rights and responsibilities, listen to their concerns, and encourage individuals to obey the rule of law at all times.



### PUBLICATIONS/RESEARCH

We release many publications throughout the year, including our annual report, specialised research reports, online stories and a range of e-books and website series that provide insight and guidance on fighting corruption in daily life. This is our eighth annual report to date.



### RAISING AWARENESS

Above all, we communicate all that we do to the public, in order to encourage informed public participation in combating corruption.





## 2019 IN REVIEW

# WHAT THE NUMBERS SAY

## TI CORRUPTION PERCEPTIONS INDEX (CPI)

The 2019 Corruption Perceptions Index (CPI) was released in January 2020 by Transparency International (TI), the global coalition against corruption. It did not bring good news for South Africans weary of the looting, incompetence and malfeasance that have characterised the country in recent years.

The index ranks 180 countries and territories by their perceived levels of corruption in the public sector according to experts and business people.

It uses a scale of zero to 100, where zero is highly corrupt and 100 is very clean.

The latest edition revealed that more than two-thirds of countries score below 50, with an average score of just 43.

South Africa improved marginally from a score of 43 in 2018 to 44, which still placed it squarely amongst countries deemed to have a serious corruption problem and whose anti-corruption efforts are below par. The country ranked at 70, along with Hungary, Romania and Suriname, and was surpassed by eight other sub-Saharan African countries.

Since 2012, only 22 countries have significantly improved their CPI scores, including Greece, Guyana and Estonia. In the same period, 21 countries significantly decreased their scores, including Canada, Australia and Nicaragua. In the remaining 137 countries – of which South Africa is one – the levels of corruption show little to no change.



### 180 COUNTRIES SCORED

The index ranks 180 countries and territories by their perceived levels of corruption in the public sector according to experts and business people.



100:  
VERY CLEAN

↑ THE CPI SCALE ↓

0:  
HIGHLY CORRUPT

2 OUT OF 3  
COUNTRIES  
SCORE BELOW

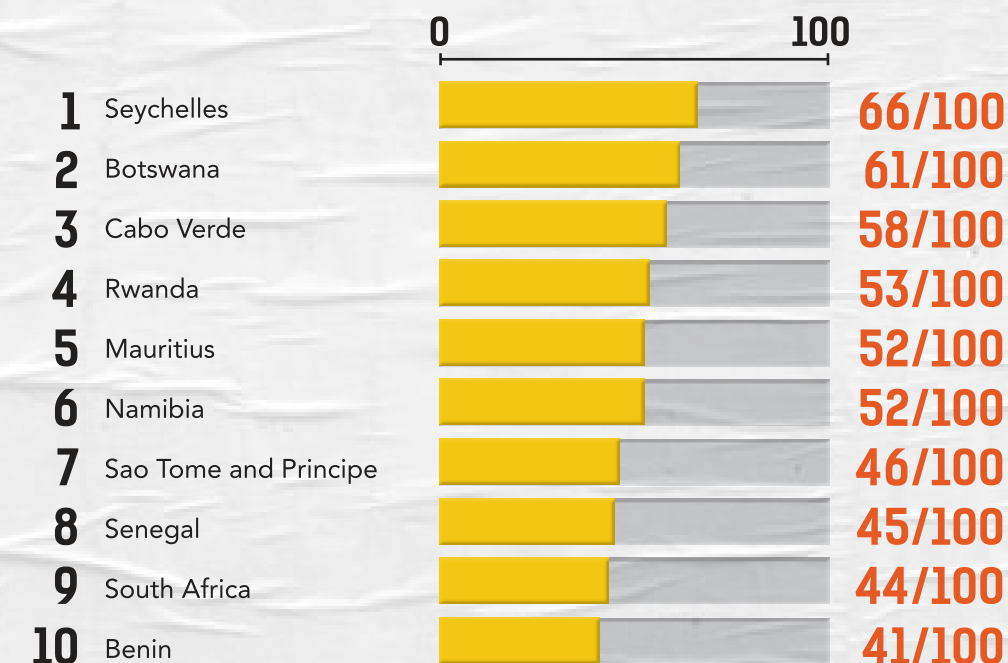
**50**/100

THE  
AVERAGE  
SCORE IS

**43**/100

## SOUTH AFRICA IS ONE OF THE 66% OF COUNTRIES WHOSE SCORE REMAINED BELOW 50

### THE SUB-SAHARAN AFRICAN TABLE:



## SINCE 2012 22 COUNTRIES IMPROVED

GREECE (+12)  
GUYANA (+12)  
ESTONIA (+10)

## 21 COUNTRIES DECLINED

CANADA (-7)  
NICARAGUA (-7)  
AUSTRALIA (-8)

## 137 COUNTRIES MADE LITTLE OR NO PROGRESS IN THE FIGHT AGAINST CORRUPTION IN RECENT YEARS





## 2019 CORRUPTION REPORTS

# DATA ANALYSIS

## 28 196 WHISTLE-BLOWER REPORTS RECEIVED SINCE 2012

28 196 whistle-blower reports received since 2012

3 694 whistle-blower reports received in 2019

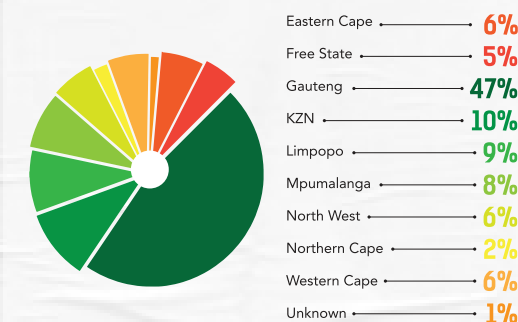
Average of 10 reports per day

Increase in whistle-blower reports about corruption within national government departments, as well as the private sector

Police services, the schooling sector, and mining industry are hotspots for corruption

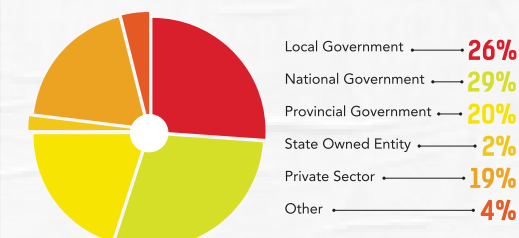
Bribery, and irregularities in the procurement process were the most common forms of corruption reported

### PROVINCIAL DISTRIBUTION



Between 1 January and the end of December 2019, Corruption Watch received **3 694 whistle-blower reports**. Overall, 2019's number of whistle-blower reports takes the tally of incidents reported to the organisation since 2012 to over 28 000, giving an average of 3 524 corruption cases per year. In 2019, the majority of reports stemmed from Gauteng (47%), followed by KwaZulu-Natal (10%), and Limpopo (9%) which features in the top three provinces for a second year in a row.

### INSTITUTIONAL LOCATION



The data shows that corruption reports involving national government count for 29%, which is a 2% increase in comparison to 2018, local government counts for 26%, and 20% of reports are located at provincial level. A fifth of the reports, 19%, point a finger at the private sector.

## 2019 HOTSPOTS

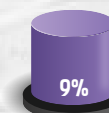
POLICING



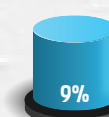
SCHOOLS



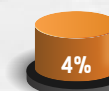
MINING



TRAFFIC & LICENSING



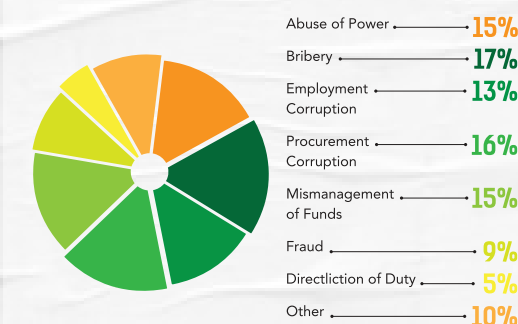
HEALTHCARE



HOUSING



### TYPES OF CORRUPTION



Our reports reveal that the prominent forms of alleged corruption are bribery (17%), procurement corruption (16%) and mismanagement of funds (15%). These various forms of corruption manifest in a number of focus areas, principally related to the provision of basic services.





## RESEARCH

# THE *TRICKY* ISSUE OF LAND CORRUPTION:

## CORRUPTION IN THE LAND SECTOR

Reaching thousands of people and helping them know their rights in relation to land was one of the biggest triumphs for the Corruption Watch team involved in the Land Corruption in Africa project.

**"TRANSPARENCY INTERNATIONAL'S *LAND CORRUPTION IN AFRICA* PROJECT RAN FOR FIVE YEARS, AND LOOKED AT *CORRUPTION* IN RELATION TO LAND MATTERS. IT PROBED ISSUES OF SEXTORTION, BRIBERY, AND POLITICAL CORRUPTION, AND ALSO DISCUSSED HOW THESE AFFECT NOT ONLY COMMUNITIES, BUT ALSO THE ENVIRONMENT"**

– MELUSI NCALA, RESEARCHER, CORRUPTION WATCH

This Transparency International project sought to understand the impact of corruption on land tenure or ownership, with a specific focus on vulnerable groups, including women and children. Joining other participating countries in the project, namely Zimbabwe, Zambia, Uganda, Kenya, Liberia, Madagascar, Ghana, Cameroon and Sierra Leone, the CW research team set about digging deeper into corruption in the land sector in South Africa.

Corruption in land governance is commonly defined as the abuse of entrusted power for private gain while carrying out the functions of land administration and land management<sup>1</sup>. On a broader level, CW speaks of corruption as the abuse of entrusted power for personal or private gain, which frequently involves the intersection between a public official and a private individual for the purposes of misusing or misappropriating a public resource for self-enrichment. Between 2012 and the end of 2018, CW received 706 reports of corruption pertaining to land and related areas, including housing and mining, and these reports formed the starting point of the research project. Sextortion appeared to be the most prevalent issue, especially in relation to housing, where officials solicit sexual favours from women who are applicants for RDP houses. Overall, however, these cases bear testimony to the pillaging of resources and the violation of people's basic human rights by both public servants and private entities.

**"IT WAS IMPORTANT FOR CW TO ADD ITS VOICE TO THE ISSUE OF LAND IN *SOUTH AFRICA* AND EDUCATE PEOPLE ABOUT THEIR RIGHTS, AS THE SUBJECT OF LAND EXPROPRIATION WITHOUT COMPENSATION BREWS"**

– MELUSI NCALA, RESEARCHER, CORRUPTION WATCH

The project, through an initial literature review on the land reform processes that have given rise to corruption in South Africa, aimed to highlight past and present land reform structures and the existing loopholes that allow for corruption to thrive. It also provided an opportunity for CW to contribute towards the current policy debate and legislative process around land expropriation without compensation.



The nine-month project included roundtable discussions with civil society partners and activists, the production of public education material in **English, Sesotho and isiZulu** that explained what land corruption is, how it manifests, its effects, the avenues that can be pursued to address it, and engagement of communities in KwaZulu-Natal on issues of land corruption. These included Clairwood, a 150-year old heterogeneous community, Umlazi, the biggest township in the province, city dwellers from informal settlements and hostel residents in and around the city of eThekweni.

**"IN COMMUNITIES THAT WE VISITED, YOU PAY A BRIBE TO BE GIVEN A PIECE OF LAND IF IT'S TRADITIONAL LAND, AND IT IS ADMINISTERED IN SUCH AN OPAQUE WAY THAT PEOPLE HAVE VERY LITTLE KNOWLEDGE ABOUT GETTING TRADITIONAL LAND. THEY ALSO DID NOT KNOW THEIR RIGHTS AS COMMUNITY MEMBERS AND AS WHISTLE-BLOWERS..."**

The CW team launched the **research report into land corruption** in South Africa on 3 December 2019, and also undertook a comprehensive baseline evaluation in KZN, two focus group discussions, one with men and the other with women, a survey of 295 respondents, and a range of meetings with private companies, civil society organisations and traditional leaders.

**"A PARTICULAR TRIUMPH OF THIS PROJECT WAS BEING ABLE TO EARN THE INTEREST AND TRUST OF HUNDREDS OF PEOPLE, AND GAIN INSIGHTS FROM THEM BASED ON THEIR PERSONAL EXPERIENCES. ULTIMATELY IT HELPED TO MAKE LAND CORRUPTION A TOP AGENDA ITEM IN THE MINDS OF COMMUNITY MEMBERS AND OTHER SOUTH AFRICANS"**

– MELUSI NCALA, RESEARCHER, CORRUPTION WATCH

## 2019 ANNUAL CORRUPTION TRENDS (ACT) REPORT

In August, Corruption Watch released its third edition of the Annual Corruption Trends (ACT) Report which looks at the whistle-blower reports that were received in the first half of the year. The report revealed that for the first time, Corruption Watch received more reports on corruption in policing than in other sectors such as schools, healthcare, and traffic and licensing.



END ALL TYRANNY & CORRUPTION ←  
WE CAN'T WATCH HELPLESSLY AND DO NOTHING  
ABOUT THIS PLAGUE. WATCH OUR PUBLIC RESOURCES  
GO TO WASTE. WE CAN FIGHT OUR WAY BACK TO LAW  
& ORDER. IT ALL COMES DOWN TO WHAT  
WE DO TODAY





# BLOWING THE WHISTLE FOR CHANGE

Corruption Watch relies on members of the public to report their knowledge and experience of corruption, by accessing the various reporting channels made available to them, which include the website, WhatsApp, SMS, face-to-face interventions, and phone calls.

This engagement with the public is critical to CW's work, and these whistle-blower reports are absolutely essential to pointing to patterns of corruption, and the forms that it takes. They have guided CW in its campaigns and focus on specific sectors, such as mining, and they have provided intelligence to make valuable inputs around policy and legislative reforms. Primarily, they enable CW to speak with the backing of the public and to refer to evidence-based research that highlights priority areas to be addressed.

This model of encouraging the public to blow the whistle is equally reliant on the

commitment and dedication of CW team members who are often the first point of contact with distraught whistle-blowers, or are the ones tasked with investigating the details of their report, or writing up their stories for public exposure.

These interactions can be rewarding, but also draining and sometimes daunting, when one hears the lived experiences of people who have found the courage to speak up.

Mzwandile Banjathwa, project co-ordinator at Corruption Watch and also tasked with receiving, capturing and allocating whistle-blower reports, says that from his perspective, whistle-blowers are not only trusting the organisation to solve their cases but they are also trusting it to confidentially deal with sensitive information to ensure their safety. For many whistle-blowers, it is hard to report corruption because of the possible consequences, and some even fear for their lives.

"People come with different challenges, some are big, some are small and some are highly traumatising, but you have to absorb and deal with them the best way you can."

Typically, Banjathwa deals with people who have reported their matters to various institutions and did not receive satisfactory results, therefore they approach CW as their last possible resort and so come with high expectations. Corruption Watch's positioning as an independent anti-corruption agency

means that people will often have higher expectations from the team to deal with corruption-related issues.

It is therefore imperative that the frontline team members explain to whistle-blowers at the outset what CW can and cannot do, that while the organisation does not have the formal powers or resources of key law enforcement and legal institutions, and there is always the wish to investigate more, it is still able to use whistle-blower reports to create an impact in the ways mentioned above.

**"THE MESSAGE WE SEND OUT TO REPORTERS AND POTENTIAL REPORTERS IS VERY IMPORTANT"**

— MZWANDILE BANJATHWA, PROJECT CO-ORDINATOR, CW





**"WE ALWAYS EXPLAIN OUR PROCESSES TO REPORTERS, MAKING IT CLEAR THAT WE ARE NOT LIKE THE NATIONAL PROSECUTING AUTHORITY OR THE HAWKS. CW IS A NON-GOVERNMENTAL ORGANISATION, MEANING WE HAVE LIMITED RIGHTS AND ABILITIES, AND MOSTLY WE NEED THEIR HELP IN GETTING INFORMATION TO FULLY INVESTIGATE"**

– ZANELE MWALE, SENIOR FORENSIC INVESTIGATOR, CORRUPTION WATCH

**"THE BIGGEST CHALLENGE THAT WE FACE IN THE SOCIAL JUSTICE SPACE IS GETTING INFORMATION. IT IS DIFFICULT FOR US TO GET THE INFORMATION WE NEED SO WE CAN CONDUCT OUR WORK TO THE BEST OF OUR ABILITIES"**

– ZANELE MWALE, SENIOR FORENSIC INVESTIGATOR, CORRUPTION WATCH

Zanele Mwale, a senior forensic investigator for Corruption Watch's legal and investigations unit, gathers information, evidence and data that CW can use to build strong cases against those who are implicated in the corruption reports received by the organisation.

This task can be immensely gratifying, but also carries with it constant frustrations in seeking positive outcomes for whistle-blowers, chief among which is working with government departments that do not co-operate in providing information to assist with investigations.

This is why we are so excited about the health sector anti-corruption forum – it gives

us a formal channel to which we can refer our reports. Another hurdle is getting the people involved in corruption to be prosecuted. This makes it difficult to get justice for whistle-blowers, and frequently their expectations exceed CW's abilities.

However, most of the completed investigations are written up and published on the website as stories or exposés on the website, which may not always be enough for whistle-blowers, but does create exposure for the issue. Not every whistle-blower's case will be investigated. They are not only selected on the basis of importance, but also factors such as the whistle-blower providing further information or evidence to support the allegations.

**TRUTH**



**"SOME SUFFER OCCUPATIONAL  
DETRIMENT, LOSE THEIR JOBS, SOME  
HAVE TO MOVE AWAY BECAUSE THEIR  
LIVES ARE THREATENED"**

**"THEY'RE VERY RESILIENT AND MANY  
DON'T REGRET THE PERSONAL HARM  
THAT THEY'VE GONE THROUGH TO DO  
THE RIGHT THING."**

**– TARA DAVIS, IN-HOUSE ATTORNEY, CORRUPTION WATCH**

The CW team is currently drafting a whistle-blower manual with legal firm Cliffe Dekker Hofmeyr, the aim of which is to make the legislation accessible, intelligible and digestible with easy-to-follow steps. This will be helpful to employers who might want to incorporate a whistle-blower policy.

This initiative is important as whistle-blowers are doing their ethical duty at extreme personal cost.

**"THIS PROJECT  
STEMMED FROM REAL  
NEEDS. WHISTLE-  
BLOWERS ARE *STRUGGLING*  
IN SOUTH AFRICA AND  
SOME OF THOSE WHO  
COME TO US ARE IN  
PRETTY BAD SITUATIONS"**

**– TARA DAVIS, IN-HOUSE ATTORNEY, CORRUPTION WATCH**



# CAMPAGNING FOR JUSTICE

One of the hallmarks of the Corruption Watch model is the selection of key campaigns that bring to light corruption, and its impact on specific sectors that deprive people of their human rights and access to justice. These campaigns are identified from the numerous reports received from the public which expose alarming trends of corruption in sectors such as healthcare, policing, mining, schools, and the immigration system, to name a few. Other campaigns profile the erosion of key institutions, pointing to the critical lack of credible leadership, or of sufficient policies and strategies to seriously address corruption.

The emphasis of CW's campaign work is on restoring rights and justice to people who suffer as a result of resources misspent, unspent, or simply plundered, or abuse of power inflicted upon them by those elected to protect and serve. The team

works with groups of people united in common interest around the devastating impact corruption – which has no place in our constitutional democracy – has on their daily experiences. The aim is to join and support whistle-blowers in spearheading a movement of change and activism that not only exposes the corrupt, but mobilises the public and stakeholders to lobby for change, accountability and ultimately prosecution. The community engagements help to encourage activism amongst community members to fight corruption collectively and to report these matters as they experience them.

Each of these campaigns comprises major activities that encompass high-level policy research and public mobilisation.



**"THE VISION FOR 2020 FOR THE STAKEHOLDER TEAM IS TO INCREASE THE NUMBER OF REPORTS THROUGH ACTIVATIONS AND COMMUNITY ENGAGEMENTS. TO THIS END, WE ARE PLANNING TO INCREASE COLLABORATIVE WORK AND IMPROVE RELATIONSHIPS WITH NUMEROUS STAKEHOLDERS, WHETHER OTHER CIVIL SOCIETY ORGANISATIONS, PRIVATE ENTITIES, OR GOVERNMENT. THESE COLLABORATIONS WITH VARIOUS ENTITIES WILL HELP, AS OUR FOCUS THIS YEAR IS ON CW'S HEALTH CAMPAIGN AND POLICE CAMPAIGN. IT IS VERY IMPORTANT THAT WE ESTABLISH AND MAINTAIN THOSE RELATIONSHIPS"**

MZWANDILE BANJATHWA, PROJECT CO-ORDINATOR, CORRUPTION WATCH





# CORRUPTION IN PUBLIC HEALTHCARE

The state of the public healthcare system in 2019 continued to deteriorate, with services all but completely collapsing across many fronts and provinces. Corruption contributed in a major way, in the form of irregular expenditure, financial misconduct, theft,

illegal sharing of patient medical data to third parties, moonlighting and nepotism, to name some of the types of corruption brought to CW's attention during the year. Corruption Watch has continued its interventions in the healthcare sector, largely on two fronts.

According to the **2019 Budget Review Report**, spending in health was set to grow annually by an **average of 7%** over the medium term. But an article by the Bhekisisa Centre for Health Journalism, responding to the review, revealed that:

"Total health **expenditure in 2019/20** is **proposed** to be **R222.6-billion**, this is **R700-million less** than what was projected in the Medium Term Budget Policy Statement released last year.

On paper, the health budget **grew by 6.6%**. But in **reality, it shrunk**.

In real terms, a **6.6% increase** represents a **decline** in health funding per person once standard inflation of 5.2% is factored in as well as a 1.6% growth in population. It's worth noting that medical inflation or the inflation rate for healthcare products and treatment is usually higher than this general inflation rate of 5.2%"

<https://bhekisisa.org/article/2019-02-21-2019-budget-south-africa-health-funding-declines-national-health-insurance/>

## HEALTH SECTOR ANTI-CORRUPTION FORUM

The team has actively promoted the reporting of corruption in public healthcare. These efforts have been significantly aided by CW's membership of a forum originally conceptualised by the Special Investigating Unit (SIU) in June 2018. This forum is comprised of public sector bodies (Department of Health, SIU, the Hawks, the South African Police Service (SAPS), Anti-Corruption Task Team, Financial Intelligence Centre and the National Prosecuting Authority (NPA), private sector bodies (Board of Healthcare Funders of Southern Africa, Health Funders Association, Council for Medical Schemes, Health Professions Council of South Africa) and civil society organisations (Corruption Watch and Section 27).

On 1 October 2019, President Cyril Ramaphosa officially launched the Health Sector Anti-Corruption Forum (HSACF), as the forum is now named,

and along with Corruption Watch and other stakeholders, publicly signed the terms of reference.

The forum has proved to be an effective platform for building collaborative and mutually supportive relationships and co-operation between key parties to address corruption in the sector. As a member of the steering committee, CW meets with the forum on a monthly basis to discuss corruption reports and data trends, and provide input on proposed interventions.

The collaboration is ongoing and the team will continue to refer reports of health corruption for investigation or intervention, with the hope that some of these will lead to criminal prosecution and civil litigation. To date, six reports have been referred to the HSACF and five have been actioned by various law enforcement agencies.







# CORRUPTION IN THE HEALTH SECTOR

YEAR	NO. OF REPORTS
2012 – 2019	673
2019	92
PROVINCE (2019)	PERCENTAGE
EASTERN CAPE	7%
FREE STATE	8%
GAUTENG	52%
KWAZULU-NATAL	5%
LIMPOPO	7%
MPUMALANGA	11%
NORTH WEST	5%
NORTHERN CAPE	1%
WESTERN CAPE	0%
UNKNOWN	4%
TOTAL	100%

INSTITUTIONAL LOCATION (2019)	PERCENTAGE
NATIONAL GOVERNMENT	52%
PROVINCIAL GOVERNMENT	23%
LOCAL GOVERNMENT	5%
PRIVATE SECTOR	7%
TYPES OF CORRUPTION (2019)	PERCENTAGE
ABUSE OF POWER	13%
PROCUREMENT IRREGULARITIES	11%
EMPLOYMENT IRREGULARITIES	27%
ABUSE OF RESOURCES	10%
FRAUD	10%

# OPEN CONTRACTING FOR HEALTH (OC4H)

The Corruption Watch team is responsible for the South African leg of a five-country study and advocacy campaign promoting open contracting in public healthcare procurement. The five countries making up the international team are Kenya, Uganda, Zambia, Nepal and South Africa.

Through its facilitation of open contracting in the Department of Health’s procurement processes, the project aims to boost the integrity, fairness and efficiency of public contracting, and to ensure the better use of scarce public funds in health. The focus is on advocating for an open approach to procurement, thereby strengthening transparency and access to information within the procurement space. Participating sectors include civil society, government, and business.

One way of accomplishing this is to build the capacity of health and procurement institutions to adhere to the Open Contracting Data Standards (OCDS), developed by the World Bank.

OPEN CONTRACTING CAN BE UNDERSTOOD AS ACTIVITIES RELATING TO THE PUBLISHING AND USE OF OPEN, ACCESSIBLE AND TIMELY INFORMATION ON GOVERNMENT CONTRACTS TO ENGAGE CITIZENS AND THE PRIVATE SECTOR IN IDENTIFYING AND FIXING PROBLEMS IN SUPPLY CHAIN PROCESSES

To kick off the project, in December 2018 the CW research team produced a scoping study on procurement corruption in the public healthcare system in South Africa, the report of which formed the basis of the two-year project. We have spent time understanding the complexities of health procurement and a number of initiatives were implemented during the course of the project.





**“ONE OF THE THINGS WE ARE FOCUSING ON IS THE CHALLENGE FACED BY CIVIL SOCIETY ORGANISATIONS IN GAINING ACCESS TO INFORMATION REQUIRED TO MONITOR THE IMPLEMENTATION OF A TENDER”**

**– TARA DAVIS, IN-HOUSE ATTORNEY, CORRUPTION WATCH**

Corruption Watch is a member of Imali Yethu, a coalition of civil society organisations, working in partnership with National Treasury to co-create Vulekamali. Vulekamali is an online budget portal which aims to make budget information more accessible, user-friendly and empowering.

Following a roundtable discussion with other CSOs working in procurement, CW has

begun plans to conduct legal research which looks at what information is lawfully required to be published, how to access information when it is not available, and information regarding what is considered legally and commercially sensitive information.

Another ongoing initiative is a data analysis which involves a technical mapping of South Africa's e-procurement portals.

**“CORRUPTION IN HEALTH PROCUREMENT CAN LEAD TO SHORTAGES IN MEDICAL SUPPLIES, SUB-STANDARD EQUIPMENT, INFLATED DRUG PRICES AND COUNTERFEIT MEDICINES – ALL OF WHICH UNDERMINE HEALTH OUTCOMES. TRANSPARENT PROCUREMENT ALLOWS FOR GREATER ACCOUNTABILITY BY ALLOWING CIVIL SOCIETY TO BETTER MONITOR SERVICE DELIVERY.”**

**– TARA DAVIS, IN-HOUSE ATTORNEY, CORRUPTION WATCH**

The purpose is to ascertain what fields of information are being captured and the type of analysis they make possible.

The legal and data analyses will be used together for advocacy purposes to determine which open contracting methods are most appropriate for South Africa.

The OC4H project is scheduled to run until March 2021, barring any extensions or bridging periods





# Corruption

## IN THE POLICING SECTOR

During 2019 the subject of corruption in the policing sector emerged time and again. Reports of police corruption from South African residents featured in the research report on corruption in the policing sector, *Corruption in Uniform*, released on 13 June. The team also created a podcast to accompany the report, which can be accessed via the CW website as well as an external platform, Anchor fm.

The report includes CW’s policing data, the impact that police corruption has had on whistle-blowers, as well as public education material on how to report police misconduct or corruption. A podcast was also created to accompany the report. One of the objectives of the sectoral report is to use it to increase whistle-blower reports on policing.

Since the organisation’s inception in 2012, some 1 400 members of the public have felt concerned enough to share their experiences of corruption at the hands of the police.

The leading categories of corruption from all of these reports are bribery (30% of total), abuse of power (26%), and dereliction of duty (17%), all of which can have severe consequences for those seeking help and support from the men and women in uniform entrusted with protecting and serving the people of this country.

YEAR	NO. OF REPORTS
2012 – 2019	1710
2019	250
PROVINCE	PERCENTAGE
EASTERN CAPE	2%
FREE STATE	4%
GAUTENG	60%
KWAZULU-NATAL	14%
LIMPOPO	5%
MPUMALANGA	4%
NORTH WEST	2%
NORTHERN CAPE	2%
WESTERN CAPE	7%
UNKNOWN	0%
TOTAL	100%

TOP 2019 MUNICIPAL HOTSPOTS	PERCENTAGE
CITY OF JOHANNESBURG	32%
CITY OF TSHWANE	14%
CITY OF CAPE TOWN	6%
ETHEKWINI	11%
EKURHULENI	8%
2019 CORRUPTION TRENDS	PERCENTAGE
ABUSE OF POWER	30%
BRIBERY	26%
DERELICTION OF DUTY	17%

Following the release of this report, Transparency International in partnership with Afrobarometer released the tenth edition of the *Global Corruption Barometer (GCB) – Africa* on 11 July 2019, African Anti-Corruption Day. The report revealed that 64% of South Africans surveyed think that corruption increased in the previous 12 months. The survey was conducted between July and September 2018, engaging 47 000 citizens in 35 African countries, more than half of whom believe that corruption is getting worse in their country. Overall, the police service is considered the most corrupt institution, with

a global average of 47% of people believing that most or all police are corrupt; in South Africa, this figure rises to 49%.

The subsequent release of CW’s *2019 Analysis of Corruption Trends Report* on 27 August, which spotlighted the 1 591 brave whistle-blowers who have exposed corruption in different sectors across the country during the first half of that year, also pointed to police graft and for the first time, corruption in the police sector overtook other sectors such as schools, health and local government.





# GOOGLE IMPACT CHALLENGE

**"THESE REPORTING DATA HAVE GUIDED US IN OUR DECISION TO INTENSIFY OUR ENGAGEMENT WITH THE POLICING AND HEALTH SECTORS. WHERE POLICING IS CONCERNED WE ARE PRESENTLY BUILDING AN EASILY ACCESSIBLE PLATFORM THAT WILL PROVIDE BASIC INFORMATION ABOUT EVERY POLICE STATION IN THE COUNTRY, THUS ENABLING COMMUNITIES TO RATE THE PERFORMANCE OF, AND HOLD ACCOUNTABLE, THEIR POLICE STATIONS..."**

**"IF WE ARE TO TACKLE CORRUPTION AND MANY OTHER SOCIAL ILLS LIKE GENDER-BASED VIOLENCE, IT IS NECESSARY THAT THERE BE TRUST IN THE POLICE, BUT THE POLICE HAVE TO EARN THAT TRUST. BY PROVIDING A MECHANISM FOR ACCOUNTABILITY WE ARE HOPING TO CONTRIBUTE TO BUILDING TRUST BETWEEN THE COMMUNITIES AND THE POLICE"**

**– DAVID LEWIS, ED, CORRUPTION WATCH**

Corruption Watch was the recipient of a \$250 000 award in November 2018, as a winning participant in the Google Impact Challenge. The award will enable the development of an online tool that seeks to create transparency in the SAPS and to promote accountability. Activities to support this initiative have included engaging stakeholders in the fields of open data, as well as individuals and organisations with expert understanding of policing, to assist in developing the tool. These include Google volunteers with expertise in building open data platforms, and also in behavioural science, in order to develop the correct models suitable for the target audience.

The research for the Know your Police Station public education / rights training material

has been finalised, as had 80% of the data collection by the end of 2019. The remaining 20% will be retrieved in the new financial year

## COMMUNITY ENGAGEMENTS

During the course of the year, community engagements were held in Alexandra in Gauteng, in the Western Cape with activists from across the Cape Flats, representing communities from Manenberg, Hanover Park, Delft, Bonteheuwel, Mitchells Plain, Khayelitsha, Ocean View, Eastridge, Macassar, Scottsdene, Wesbank and Philippi, and in Clairwood, KwaZulu-Natal, on issues of policing and police corruption.





Community members were invited to share their experiences and concerns about policing, as well as ideas on how to improve the situation. Some community members highlighted the vulnerability of people, in particular women, to abuse of power by police officials, as well as rampant corruption that implicates police officials in criminal syndicates involving drug-dealing, hijackings and even killings.

**“THIRTEEN PEOPLE HAVE BEEN KILLED IN PHILIPPI ON THE CAPE FLATS SINCE FRIDAY EVENING.. CAPE TOWN POLICE LAUNCHED AN INVESTIGATION INTO THE MURDERS OF SIX WOMEN IN PHILIPPI EAST. THE VICTIMS, AGED BETWEEN 18 AND 26, WERE GUNNED DOWN AT A RESIDENCE IN THE MARCUS GARVEY COMMUNITY ON FRIDAY NIGHT”**

– [HTTP://WWW.CAPETALK.CO.ZA/ARTICLES/354084/PHILIPPI-CAPE-TOWN-13-PEOPLE-KILLED-IN-48-HOURS](http://www.capetalk.co.za/articles/354084/philippi-cape-town-13-people-killed-in-48-hours)

## INTERVIEW:

# POLICING THE POLICE

Kavisha Pillay heads up the campaigns and stakeholder relations unit within Corruption Watch (CW). Together with her team, she had a busy 2019 and is looking forward to an even busier 2020. Much of her time is taken up with the police campaign

We can't deal with corruption in other areas like health, education or housing, when the institutions that have been mandated to fight corruption are themselves corrupt.

## WHAT IS THE BIGGEST TAKEAWAY FROM THE POLICE CAMPAIGN FOR YOU?

We're still learning. Our community engagements have shown us that while there are many similarities in how police abuse their power, communities' experiences of this varies, so we're listening to different communities to understand the issues with policing. The problem is vast and my biggest takeaway at this point is how different communities experience police corruption.

## WHERE HAVE YOU TAKEN THE CAMPAIGN SO FAR?

The campaign has transformed and changed according to our experiences. Our initial focus was on leadership appointments and then we changed the strategy from high level to grassroots, and looked at communities to try to understand the problems and people's experiences. The team felt disempowered because we realised that our efforts to investigate individual matters of police corruption do not change the space. So we looked at our reports, did some research and developed this idea of creating transparency and accountability within the police. We're trying to create a space for better policing and a public that can exercise proper, responsible oversight.

## HOW DID CW COME UP WITH THE CAMPAIGN?

We've received a high volume of reports on alleged police corruption since we launched in 2012. In 2017 we started focusing on the appointments of the national police commissioner and the head of the Hawks. Our thinking was that there must be proper leadership within these institutions because we know that they are systemically corrupt.



WE CAN CLIMB OUT OF THIS ROT BEFORE IT SPOILS THE  
COUNTRY. ONE REPORT AT A TIME. WE CAN TAME THE  
WICKED BEAST OF CORRUPTION. IN THIS NATION  
NO MAN SHOULD HAVE ALL THAT POWER, IN THIS NATION  
NO DIRT SHALL BE SWEEPED UNDER THE RUG





## ARE WE BEING FAIR TO THE POLICE, GIVEN THAT THE CAPACITY ISSUE COMES UP OFTEN IN POLITICS?

Our work at the moment is about balancing the narrative because the public is outraged at the police, as they feel that they are not doing their job, while the police are on the defensive because they feel like people don't understand how hard their job is on a day-to-day basis. We are hoping to work with the Civilian Secretariat of Police, a component of SAPS, and Ipid in an effort to balance the narrative. We want to make sure the public is aware that police stations are not always fully capacitated or have the proper resources, so this may be why they feel their police station is not helpful. It would be wrong for us as an organisation to simply point fingers at the police, but the issue is that there is a culture of corruption in the organisation, which doesn't make it easy to build trust when people brazenly abuse their power.

## WHO IS PARTNERING WITH CW IN THE CAMPAIGN?

It's the Institute for Security Studies (ISS), who have done extensive research around policing and police corruption. And then we work with organisations on the ground like the Social Justice Coalition and the Right2Know Campaign. Community organisations are important to us too, like Moms Move for Justice, which is a group of mothers in Cape Town who have lost their kids through gang violence or police brutality.

## WHAT ARE THE MAIN OBJECTIVES FOR THE CAMPAIGN?

Creating public awareness about police corruption and how it manifests is key, as is what the public can do about it, and training the public about their rights and responsibilities.

We want to improve police transparency with our new online tool, and encourage public participation in policing, following on the awareness. We also focus on accountability and this is in line with the work we do by engaging with Parliament, making submissions with key pieces of legislation that come out on police reports, and putting our opinion out there about what must happen to ensure effective policing in the country.

## WHAT WERE THE HIGHLIGHTS FOR LAST YEAR?

A big highlight was a meeting we hosted in June in the Western Cape, bringing together 11 different communities from the Cape Flats, including Khayelitsha, Nyanga, Langa, Gugulethu, Mitchells Plain, Lavender Hill, and Elsie's River. It was really informative in terms of issues of police corruption, understanding experiences, and knowing what is going on in that environment. We received many comments thanking us for bringing them together: "we didn't know that our comrades here were actually experiencing that, we can learn from this."

It was also a difficult meeting because you don't really understand the level of pain that these communities go through until you hear

each of them relate their experiences. These range from a father whose young daughter was allegedly raped by an elder in the church, who paid the police off so the family was unable to receive help from the police, to how kids in the Cape Flats sometimes get gunned down by police because they're on the side of a rival gang. We heard comments like "if you've lived over the age of 55 you've lived a good life." So life expectancy is pretty short there.

## WHAT DO WE WANT TO ACHIEVE FOR THIS YEAR?

The key thing is the launch of our online tool in the middle of this year. It still doesn't have a name, but it will. After the launch, we'll embark on a nationwide roadshow where we'll train people on how to use it, and get some experience as well as doing rights training. We'll also show it to interested parties in the hope that people can start mobilising around issues of effective and accountable policing.

## WHAT ARE THE REQUIREMENTS FOR A USER?

Because it is a tech tool, you have to have a smart phone. We want to make it a data-free service that incorporates a WhatsApp function in case you can't access the full site. It must be user-friendly and accessible, but we want to give enough information to provide a complete picture of what is happening with policing in communities. We hope to be able to build a community of corruption fighters in that sphere, who have that information to act on as a base to demand accountability.

We talk about police stations being under-capacitated, but each police station has to have a number of dedicated personnel. If my police station is meant to have 200 officers and it only has 50, then I need to know why. It's not a complete solution, because the problem itself is too complex. The tool is a pilot for giving people access to information in order to build a narrative, and by people being able to report to us and highlighting hotspots using different data sets from Ipid and the civilian secretariat of police. We're also building up a type of crime intelligence because you can see where the hotspots are.

## ARE WE TAKING CUES FROM COUNTRIES THAT HAVE SUCH?

This model was actually developed by taking examples from different countries and then creating our own. India has I Paid a Bribe, where they use heat maps for bribe hotspots. We will be implementing a similar feature where users can view the bribe hotspots across the country. In the US, the LAPD provides the names and ranks of all police officers in their service, making it useful for people to know who works in their police station, but also being able to point out corrupt officials. Our feature will also allow users to rate their police stations – which was inspired by a practice in Brazil where citizens visit their local police station and evaluate and rank its performance.





## **TONE FROM THE TOP:** **LEADERSHIP** **APPOINTMENTS**

Anti-corruption institutions are the bastions of our democracy. As important are the people appointed to lead them, who should represent the highest standards of ethics, integrity and transparency. The subject of accountable leadership has been an area of focus for CW, and has led to engagements throughout 2019 with civil society organisations on the issue of appointments, how best to improve transparency and public participation in the proceedings, and to encourage the use of merit-based criteria.

In 2019 two key institutions were up for new leadership, namely the Independent Policing Investigative Directorate (IPID) after the departure of the former executive director at the end of February 2019, and the Office of the Deputy Public Protector, as the seven-year term of the former incumbent, Kevin Malunga, ended in December 2019. In 2020 the office of the Auditor-General will require a new leader, as the current auditor-general Kimi Makwetu's seven-year term ends on 30 November 2020.

### **INDEPENDENT POLICE** **INVESTIGATIVE** **DIRECTORATE**

In February 2019 Corruption Watch made submissions to the Parliamentary Portfolio Committee on Police (PCP) on the process to determine the renewal of the contract of then IPID executive director Robert McBride.

CW's interest stems from the focus on the independence and effective functioning of oversight bodies like IPID, and other institutions in the criminal justice sector. The submission offered a list of criteria for consideration.

PCP chairperson Francois Beukman referred to the Corruption Watch submission as "well crafted", and pointed to two specific inputs relating to the role of the portfolio committee and its members in determining the renewal of the contract.

Following the 11th hour decision of the PCP not to extend McBride's contract, which ended on 28 February 2019, CW continued to lobby for more transparent processes for the appointment of the executive director of IPID. In August, CW wrote a detailed letter to the Minister of Police, Bheki Cele to consider, which proposes a process that is transparent and fair when appointing the executive director of IPID. A follow-up letter was sent to the PCP in November 2019 which further stresses the importance of a transparent and public participatory process that uses clear merit-based criteria.

The position had yet to be filled by the end of 2019, although according to police minister Bheki Cele, this appointment will be made by March 2020.

## **"POTENTIALLY POLITICALLY** **EXPLOSIVE INVESTIGATIONS –** **INVOLVING HUNDREDS OF MILLIONS** **OF RAND – INTO SAPS HIGH FLYERS** **MAKE THE IPID JOB CRUCIAL TO** ***SOUTH* AFRICA'S FIGHT AGAINST CORRUPTION"**

– MARIANNE THAM, DAILY MAVERICK, 1 FEBRUARY 2019

[HTTPS://WWW.DAILYMAVERICK.CO.ZA/ARTICLE/2019-02-01-SOUTH-AFRICA-DESERVES-A-TRANSPARENT-APPOINTMENT-OF-THE-NEXT-IPID-HEAD/](https://www.dailymaverick.co.za/article/2019-02-01-south-africa-deserves-a-transparent-appointment-of-the-next-ipid-head/)

### **DEPUTY PUBLIC** **PROTECTOR**

In September Corruption Watch launched its public awareness campaign to highlight the need for greater transparency, merit-based criteria and public participation in the appointment of key leadership positions, in particular in anti-corruption institutions. The campaign built on the initial model of the Bua Mzansi: Choose your Public Protector campaign of 2016, this time focusing on raising awareness about the role and the position of the deputy public protector (DPP). December marked the end of the seven-year term of the former DPP, Advocate Kevin Malunga, and so the CW campaign was geared towards ensuring that his replacement was appointed in a transparent way that allowed for public participation and public influence.

The team accomplished the following through this campaign:

- Launched a survey to solicit public opinion about the types of qualifications, skills and experience that the new office-holder should possess.
- Made a submission to the Committee on Justice and Correctional Services on the results of the persona survey, as well as desktop vetting on the candidates.
- Wrote to Parliament noting the intention to participate in the appointment process, and requesting the Committee on Justice and Correctional Services to conduct a public exit interview with Malunga, with a view to institutionalising this practice for all outgoing heads of Chapter 9 institutions.
- Conducted an interview with Malunga which was published on the CW website and in the Citizen Maverick.
- Following a meeting with Parliament's content advisors and researchers, CW was able to influence the types of questions posed to candidates which covered broad thematic areas such as testing the applicant's knowledge of law and understanding of Chapter 9 institutions, skills, conflict management and communication capabilities.



The process of reviewing the candidates was conducted in a transparent manner, and on 31 January 2020, President Cyril Ramaphosa appointed Advocate Nompilo Kholeka Gcaleka as the new deputy public protector.

**“CONCERNING THE ALLEGATIONS  
RAISED, CORRUPTION WATCH  
HAS DONE A VERY GOOD JOB. THE  
COMMITTEE HAS ASKED THE PUBLIC  
TO MAKE COMMENTS. CORRUPTION  
WATCH IS PART OF CIVIL SOCIETY  
THAT HAS RESPONDED AND IT HAS  
REALLY HELPED THIS PROCESS SO  
THAT THE COMMITTEE HAS A BETTER  
IDEA AS TO WHO IS THE BEST DEPUTY  
PUBLIC PROTECTOR”**

– CHAIRPERSON OF THE JUSTICE AND CORRECTIONAL SERVICES COMMITTEE,  
HONOURABLE G MAGWANISHE, IN RELATION TO THE CW SUBMISSION ON CANDIDATES  
[HTTPS://WWW.DAILYMAVERICK.CO.ZA/ARTICLE/2019-02-01-SOUTH-AFRICA-  
DESERVES-A-TRANSPARENT-APPOINTMENT-OF-THE-NEXT-IPID-HEAD/](https://www.dailymaverick.co.za/article/2019-02-01-south-africa-deserves-a-transparent-appointment-of-the-next-ipid-head/)





# NATIONAL ANTI-CORRUPTION STRATEGY

During the course of 2018, Corruption Watch actively facilitated a process to encourage public involvement and participation in, and raise awareness, about the draft national anti-corruption strategy (NACS). CW made submissions to the inter-ministerial committee responsible for the rollout and implementation of the NACS, following which the organisation was invited to serve on a reference group to provide strategic advice on the NACS and ensure the quality of the document.

The multi-stakeholder reference group, convened by the Department of Planning, Monitoring and Evaluation, has been established to ensure the finalisation of the strategy in the lead-up to a public launch in the second quarter of 2020. The reference group consists of government departments and law enforcement agencies, private sector bodies, civil society organisations, and faith-based institutions. Its purpose is to:

- Provide overall strategic advice on the NACS
- Ensure the quality of the document and that its content adequately covers all aspects reflected in the inputs from various stakeholders during consultations.
- Ensure that the document is ready for adoption by Cabinet after obtaining approval from the relevant project oversight structures.

The executive director of Corruption Watch, David Lewis, was nominated as the co-chair of the reference group along with Robert McBride. This is a positive development in that a leading representative from civil society is co-chairing a process to finalise the NACS for the country. Kavisha Pillay was nominated as the chair of a working committee focusing on issues of whistle-blowing, transparency and collaboration between stakeholders in implementing the strategy.

## INTERVIEW: KAVISHA PILLAY:

# NEW INITIATIVE TO FIGHT OLD CORRUPTION

The South African government should not demand the trust of its citizens, but can only work towards earning it back by implementing the national anti-corruption strategy fully, and remaining accountable and in control of its processes.

This is the view of Corruption Watch's head of campaigns, Kavisha Pillay, who has been part of the NACS process over the course of 2019. She chaired a working group established as part of the strategy process which canvassed the areas of active citizenry and whistle-blowing. Echoing the sentiments of President Cyril Ramaphosa in his state of the nation address in February, Pillay says the only way for the implementation plan to be fully recognised is if everyone in the country plays their part.

"Because we have such an interesting legislative landscape and corruption is so pervasive, we should be welcoming any new step and initiative to fight corruption," she says. "People will definitely feel despondent and feel it's not going to make a difference. While I understand that view, we do welcome some sort of new intervention to deal with this problem."

With its foundation in the 2015 London Summit, the NACS is an attempt at re-inventing – with a greater, more extensive approach – the former national anti-corruption forum (NACF). The now defunct forum had multi-sectoral participation, but little in the way of success.

"The NACF failed because there were too many big personalities around the table and no work gets done. I'm hoping, however, that this time around there'll be something different," says Pillay.

"There's quite an extensive implementation plan that accompanies the strategy that basically sets out short, medium and long-term goals."

One of the big things that the government has advocated for, she adds, is that this is not a government strategy – this is a societal strategy that all of South Africans need to take ownership of.





# TOWARDS ENFORCEMENT OF AFRICA'S COMMITMENTS *AGAINST* CORRUPTION (TEA-CAC)

In 2018 Transparency International launched an initiative to rally civil society efforts behind the African Union's commitments to fighting corruption, in which Corruption Watch participated. This multi-country project aimed to assess the implementation and enforcement of the continent's primary anti-corruption treaty, the African Union Convention on Preventing and Combating Corruption (AUCPCC).

Article five of the AUCPCC highlights the importance of an independent and strengthened criminal justice system. Through the project, entitled Towards Enforcement of Africa's Commitments against Corruption (TEA-CAC), CW and its partner, the Institute for Security Studies, conducted research into the types of bodies that make

up South Africa's criminal justice system, and how the independence of these institutions were eroded by political interference and state capture over the last few years.

The team hosted a final roundtable discussion in January 2019 to review the findings of the study and report with stakeholders from NGOs, the Department of Community Safety, the South African Local Government Association, and the Gauteng Province Forensic Audits unit.

Recommendations from the roundtable were incorporated into the final report, the second part of which formed the basis of a submission to the Judicial Commission of Inquiry into Allegations of State Capture in April 2019.

A second phase of the project is planned and will include further awareness and engagement interventions arising from the primary research conducted during phase one.

***Q: CW AND ISS MADE SUBMISSIONS TO THE ZONDO COMMISSION LAST YEAR. WHAT DO THOSE ENTAIL AND WHAT DO WE HOPE TO ACHIEVE?***

## **ANSWER FROM KAVISHA PILLAY:**

Those submissions looked largely at the capture of the criminal justice system, which we believe were the first institutions to fall in the state capture project – such as the NPA, Hawks and SAPS. Also, it goes farther than the [Jacob] Zuma era – which everybody believes is when capture started – to as far back as 2007, when Vusi Pikoli was forced out of the NPA for going after Jackie Selebi. We also discuss how appointments are made, how removals happen, how the system itself is vulnerable to political influence. One of our biggest recommendations relates to appointments of officials to positions and how to make sure these are done in the interest of remaining independent. There are a few other recommendations concerning what needs to happen with capacitation in terms of resources, so that we don't see a repeat of this capture somewhere down the line.





# SCHOOLS CAMPAIGN

Corruption in South Africa's public schools has been a key focus area for Corruption Watch since 2013, prompting the launch of one of the organisation's earliest campaigns, the schools campaign. Since then, the number of reports highlighting how corruption is playing out in our schools has tended to top the annual list, save for 2019, when corruption in the policing sector surpassed schools for the first time.

These reports have exposed how corruption has continued to deprive learners of decent infrastructure, sanitation, text books and nutrition, through mismanagement of funds on the part of principals, SGB members, and outside parties securing unlawful contracts, thereby diverting funds meant to benefit

schools and their learners. It became clear over the course of the campaign that more needed to be done to build the capacity and understanding of school governing bodies (SGBs), to lessen the opportunities for corrupt activities in schools.

The CW team continued its capacity building work with SGBs in the first quarter of 2019. Workshops were conducted in four districts, three sessions in each district, in partnership with the provincial departments of education in Gauteng and Northern Cape respectively. The sessions covered the legislative framework governing SGBs with a particular focus on their financial roles and responsibilities.

Equal Education, the Equal Education Law Centre, and Section 27 have made a joint submission to the judicial commission on state capture about alleged fraud and corruption in the delivery of services in the education sector... The civil society organisations are expressing concern at the impact of corruption on children's constitutional right to education.

**"OUR SUBMISSION IS CONCERNED WITH THE UNSEEN BUT PROFOUND IMPACT THAT STATE CAPTURE AND CORRUPTION HAVE ON THE REALISATION OF PEOPLE'S CONSTITUTIONAL RIGHTS. PUBLIC FUNDS LOST TO CORRUPTION HAVE BEEN AT THE COST OF EFFECTIVE SERVICE DELIVERY, AND TO THE DETRIMENT OF LEARNERS"**

– [HTTPS://WWW.POWER987.CO.ZA/NEWS/TENDER-CORRUPTION-DETRIMENTAL-TO-EDUCATION-SYSTEM-EQUAL-EDUCATION/](https://www.power987.co.za/news/tender-corruption-detrimental-to-education-system-equal-education/)





# CORRUPTION IN THE MINING SECTOR

The outlook for the mining sector in South Africa throughout 2019 remained bleak, with expectations of a continuing decline into the new year. Embattled by multiple challenges and volatility, disruption, environmental impact and prospects of job losses in the sector, a further element with devastating consequences for mining-affected communities is the corruption that permeates many facets of the industry.

The work of Corruption Watch in the mining sector is focused on advocating for greater transparency, engagement and consultation with communities, provision for public participation in decisions that affect their lives, business integrity and ethical business practices, and transparency in the awarding of mining royalties.

YEAR	NO. OF REPORTS
2012 - 2019	320
2019	168
PROVINCE	PERCENTAGE
EASTERN CAPE	0%
FREE STATE	2%
GAUTENG	1%
KWAZULU-NATAL	0%
LIMPOPO	23%
MPUMALANGA	39%
NORTH WEST	10%
NORTHERN CAPE	25%
WESTERN CAPE	0%
UNKNOWN	0%
TOTAL	100%

TYPES OF CORRUPTION (2019)	PERCENTAGE
ABUSE OF POWER	9%
COMPLIANCE	34%
MISMANAGEMENT OF FUNDS	3%

## INTERVIEW: MASHUDU MASUTHA

# DIGGING DEEP FOR SOLUTIONS

To understand the complexities of corruption in mining, a situation which encompasses government policies, mining royalties not being distributed or shared equally, and an understanding of how community members can benefit from these funds, we sat down with our legal researcher Mashudu Masutha, who has been advocating for communities to be part of important mining talks and deals.

During 2019 CW published its 2018 Mining Royalties Research Report, which focused on the management and distribution of mining royalties to people living in mine-affected communities, the majority of whom remain without any tangible benefits. Through her work, Mashudu has explored the relationship between mining companies, the government, policies and these communities, while trying to find solutions for problems that exist in the sector.

## WHAT WOULD YOU SAY HAS WORKED FOR THE CW TEAM IN 2019?

Our impact in local communities has been the highlight of our mining work. We have

successfully been able to continuously increase the sphere of awareness with communities in various provinces (North West, Limpopo, Northern Cape, and Mpumalanga) regarding the vulnerabilities in the mining application process, and increase the level of knowledge of participation rights. CW has also been able to create knowledge management tools and a peer review forum with local civil society organisations with a closer footprint to the target communities in order to have a sustainable line of communication with communities.

We engaged with the special advisors to the minister of mineral resources and energy following the 2018 closure of the Department of Mineral Resources and Energy's regional offices in Limpopo and Mpumalanga, with the aim of developing an effective and transparent complaints mechanism, providing the minister's office with accurate and accessible information as to what is happening in the various regional offices. To date we have referred four key reports to the minister's office, all of which illustrate allegations of corruption, bribery and abuse of power in the awarding of licenses and permits. All referred reports are still ongoing.





## ANY OTHER HIGHLIGHTS AND NOTABLE SUCCESSES?

While political will is imperative to the successes of both the mining projects, the lesson learned is that governments are not monolithic blocks. Even in the most challenging political contexts, CW manoeuvred and identified reform-minded political champions to support the work, which has been a key highlight.

Throughout 2019 CW worked to create a solid footprint in the local communities. The extensive community engagements and roadshows to the target communities, and the quality of the dialogue during engagements, has resulted in community trust in CW as resource experts addressing the risks in the mineral sector. Keeping the communities informed of project and intervention strategies will keep the momentum and ensure success in years to come.

Our strategic direction in the mining projects is to approach advocacy on a national, regional and international level. CW and our Transparency International chapter partners have established global partnerships and joint forums with international bodies such as the Extractives Industries Transparency Initiative, Open Government Partnership, International Council on Mining and Metals, World Economic Forum's Mines and Metals Group, Partnering Against Corruption Initiative, Publish What You Pay, the Natural Resource Governance Institute, and the Inter-Governmental Forum. CW has facilitated side events and roundtables, and made submissions, policy proposals, advocacy initiatives and document reviews with the mentioned bodies with the aim of translating global initiatives into local impact.

## WHAT HAS IT BEEN LIKE FOR YOU TO WORK ON THE PROJECT?

It has been an incredible journey working on these projects and gaining a tangible understanding of life for those who live in mining areas – the success stories from communities who have enjoyed the shared prosperity of operations and the disturbing accounts of threats to those who stand up and fight for their rights.

## THERE IS SOME FORM OF DANGER INVOLVED IN THE WORK. DO YOU, SOMETIMES FEAR FOR YOUR LIFE?

Partly. This sector can be very dangerous, principally because it involves significant money, highly connected and resourced individuals, and high valued commodities. Additionally, our work is focused on ensuring accountability and transparency which is disruptive to a corrupt system where money and benefits are exchanging hands. The best impact is revealing the irregularities and that puts everyone in a vulnerable position. We do, however, try as much as possible to mitigate the dangers and risk in order to ensure that the well-being of all concerned is not compromised.

## WHAT GOOD OR BAD HAS COME OUT OF THE STATE'S INVOLVEMENT IN THE MINING ACTIVITIES?

The regulatory environment, although still with some uncertainties, has improved in the last two or three years, with much better interaction between the industry and

regulators. This has incentivised exploration and investments in South Africa which is a positive aspect.

The negative aspects of state involvement are primarily based on undue and corrupt interference with sound governance policies. The state has on many occasions abused certain powers to the benefit of a selected few and has even gone as far as using the courts to protect private interests to the detriment of communities, as seen with the well-known Xolobeni community.

We know that the state has not created a platform for mine-affected communities as a key stakeholder in the same way as it has done for engagement with the mining industry/companies.

On a number of occasions the state has been seen as a representative of industry rather than of the people. Communities are very rarely included in decision-making spaces or even policymaking. And there isn't a structured mechanism within the departments that allows for communities to voice their concerns on the impact mining has on them. It's mostly through the work of civil society organisations and community forums that the reality of mining is elevated to wider public knowledge.

## WHAT DO COMMUNITY MEMBERS SAY ABOUT THE LEVELS OF PARTICIPATION IN MINING DEALS OR IMPORTANT TALKS? DO THEY FEEL THEIR RIGHTS ARE BEING DISRESPECTED?

We have had community engagements in mine-affected communities in Northern Cape, North West, Limpopo, and Mpumalanga and the common theme in all the communities is that there has been inadequate consultation. A concerning number of reports from Kwa-Zulu Natal, Free State, and Eastern Cape illustrate the same dynamic.

In most communities the members are well aware of their plight as a result of mining operations – it may not be interpreted as rights being violated or infringed but the flaws in the process are well noted and vocalised. This is particularly true in relation to social and labour plan agreements which do not reflect the needs of the community but have been signed off, and the compensation agreements in the form of community royalties that do not accrue to the most affected members of the community. The challenge is not that communities do not know that their rights are being violated – the challenge is that communities are not being listened to.





## ARE COMMUNITIES WELL EQUIPPED TO REPORT CORRUPT ACTIVITIES IMPLICATING THE DMR, BEE PARTNERS AND LOCAL AUTHORITY (TRIBAL AUTHORITY)?

### DO THEY GET THE NECESSARY HELP THEY NEED?

The reporting channels provided by government are not effective or readily accessible to communities, nor are they well known by community members. As a result, communities rely on the work of civil society organisations, community forums, and in some instances the operating mining company will have a reporting channel and communities will have access to that.

## WHAT WOULD YOU SAY ABOUT PEOPLE'S UNDERSTANDING OF THEIR RIGHTS AND THE RECOURSE THAT THEY CAN TAKE UP?

At community level, rights-based knowledge and recourse options are limited – but it varies. In certain areas where there is full-scale production, the level of knowledge regarding rights pertaining to operations is much higher than those where mining is relatively new. CW is always keen to leverage knowledge-sharing on the various available interventions and remedies, when we engage with communities.

## DO YOU THINK THAT THERE ARE EXAMPLES OF GOOD PRACTICE WITHIN THE MINING SECTOR?

Yes, an example of good practice is the Bafokeng Nation in North West that houses a number of multinational mining companies. The Bafokeng community has effectively managed to ensure shared prosperity, ensure a legitimate seat at the table of industry and government relations, and establish a community-based mine from which all profits go towards the development of the community. The community has also diversified beyond mining and invested in other financially lucrative industries to ensure lasting prosperity. Importantly, for the people of the community, is that the Bafokeng nation has kept to the ethos of traditional governance, while streamlining it into modern and progressive norms.

## IN 2020, WHAT ARE YOUR HOPES FOR THE CW TEAM?

Looking forward into 2020, we want to further the work of 2019 into more sustained advocacy through strategic engagement with industry, local communities, and government. We are also looking to expand our objectives into ensuring policy driven transparency and accountability in the oil, petroleum and gas deposits of the country as South Africa moves towards a more robust investment agenda into these high valued reserves.

# TRANSPARENCY INTERNATIONAL MINING FOR SUSTAINABLE DEVELOPMENT PROJECT (M4SD)

Since 2017 Corruption Watch has been a participant in a Transparency International global project involving 20 TI chapters focused on Mining and Sustainable Development (MS4D), and the need to build greater knowledge and understanding of the corruption risks and vulnerabilities in the award of licenses and contracts in the mining sector. A country-level analysis report was launched in October 2017, to provide a national evidence base for collective action, moving forward.

The CW mining team attended the 2019 Alternative Mining Indaba to discuss the implementation of national action plans formulated during the first phase of the M4SD project.

The second phase of the project, funded by a three-year grant from the Chairman's Fund of the Anglo American Corporation, and to

be rolled out in 2019/2020, is the advocacy phase intended to address the priority risk areas. It includes the implementation of the national action plan to combat corruption in mining around three core areas:

- Community consultation and public participation.
- Beneficial ownership.
- Business integrity.

Beneficial ownership and business integrity, along with responsible business conduct when securing mining licenses, are two areas also requiring advocacy initiatives. These efforts must be aimed at industry and government stakeholders, using an approach of viewing the vulnerabilities identified holistically, while recommendations must be framed with a bottom up, inclusive approach that includes relevant stakeholders on a national, regional and global level.





7 February, 2019 **THE CONVERSATION**

Communities, mining corporations and corruption in South Africa

Author: Llewellyn Leonard

Professor Environmental Science, University of South Africa

Initial activities have included forging strategic partnerships at the Open Government Partnership (OGP) level to enable CW to actively contribute to the sustainability commitments set by OGP with which government is mandated to comply. To further bolster these advocacy aims CW scheduled a side event at the Extractives Industries Transparency Initiative conference in June 2019.

Significant progress was made on advocacy initiatives during 2019, focused on addressing the key risks highlighted in the

three priority areas; in all three areas, the primary stakeholders for engagement are communities, government, and mining companies.

## COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION

The CW team has targeted various communities which host mining companies of different sizes, commodities and stages or levels of production.

**“DURING THE APARTHEID ERA IN SOUTH AFRICA, THE MINING INDUSTRY OPERATED WITHOUT RESTRAINT AND HAD UNDUE INFLUENCE OVER GOVERNMENT DECISION-MAKING. THIS CREATED AN ENVIRONMENT WHERE COMPANIES MAXIMISED PROFITS AT THE EXPENSE OF PEOPLE AND THE ENVIRONMENT”**

– [HTTPS://THECONVERSATION.COM/COMMUNITIES-MINING-CORPORATIONS-AND-CORRUPTION-IN-SOUTH-AFRICA-111007](https://theconversation.com/communities-mining-corporations-and-corruption-in-south-africa-111007)

The team has hosted community engagements and roundtables and has designed community-specific surveys in order to accurately develop the manual and allocate capacity for training and development to select communities.

The public participation leg of the project continued throughout the year. In the fourth quarter of 2019, the team held the final community engagement for the year in Mpumalanga, where a total of 203 community members attended events that formed part of a three-day roadshow in Carolina, Emalahleni and Nkomazi. Mpumalanga is one of the key provinces for the M4SD programme as a number of operations are at prospecting stage and therefore provide the opportunity to monitor in a tangible way the extent to which participation rights by community members are exercised.

The team has continued to work with Benchmark Foundation on identifying mine-affected communities that are relevant to the programme and in areas where CW may not have a footprint. The expansion of the project to encompass the entire value chain of mining (which includes communities in Limpopo, North West, Mpumalanga, Northern Cape, and KZN) requires continuing development of participation rights surveys in early 2020. The findings from these aforementioned communities will form part of a roll-out in the second half of 2020, which will contribute to consolidating the multi-stakeholder endorsed best practice model in 2021.

The CW team continued to follow the developments of the Baleni and Others v Minister of Resources and Others 73768/2016 [2018] ZAGPPHC 829; [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP) popularly known as the Xolobeni judgment. This matter falls squarely within this aspect of our work as it confirms the principle of the right to consent to mining operations and

further elucidates participation rights of host communities. We continue to support this judgment through the lens of corruption vulnerability and have raised awareness through a series of op-eds and stakeholder engagements.

## BENEFICIAL OWNERSHIP AND INTEGRITY SCREENING

In July 2019, Transparency International Australia completed the Beneficial Ownership and Integrity Screening Tool, which is designed to reduce corruption risks in the licensing process by supporting governments to strengthen their procedures for screening the beneficial owners and integrity of licence applicants. Leading experts from the Natural Resource Governance Institute and the World Bank have reviewed this tool and the South African government will be one of the pioneers of this tool that will be made publicly available in 2020.

Corruption Watch has embarked on various policy and advocacy initiatives in relation to beneficial ownership issues. The team has been collaborating with the Extractives Industries Transparency Initiative (EITI), an international body that has set the global standard for good governance of oil, gas, and mineral resources through enforcement of beneficial ownership and mandatory disclosures legal framework. In South Africa, CW has been focused on assisting the EITI secretariat in encouraging the government to become an implementing country of the EITI global standard on beneficial ownership through future collaborations on policy reform, op-eds, public education and multi-stakeholder engagements.

The CW team strengthened its engagement with EITI over the year, attending the EITI board meeting in Addis Ababa as observers, and participating in a workshop on





embedding the EITI standard of transparency into existing law by audit and financial institutions. At the board meeting South Africa was once again listed as a priority country for implementation, and the team has engaged at length with the Secretariat on joint outreach advocacy activities to take place in Q1 at the 2020 Mining Indaba and the Alternative Mining Indaba 2020.

## BUSINESS INTEGRITY IN LICENSING

Similarly, in July 2019 Transparency International Australia completed the Responsible Mining Business Integrity Tool, designed to catalyse a global shift in mining companies' anti-corruption and business integrity policies and practices to reduce corruption risks in licensing and project acquisition.

Here, CW has targeted five multinational mining companies headquartered in South Africa to implement the tool and further engage with the mining companies on best practices within the licensing phase of operations. The five selected mining companies will be pioneers of the Responsible Mining Business Integrity Tool,

which will be made publicly available in 2020, while the findings of this evaluation process will be published in April 2020 in the regional and global research report, which will illustrate industry trends and patterns.

During the last two quarters of 2019, the CW team continued with advocacy activities with the key stakeholders in the sector. These included co-hosting the African regional TI chapters in Johannesburg for a regional workshop with TI-A, the aim of which was to identify issues unique to the African minerals sector for possible leverage of the programme by way of advocacy initiatives. As the workshop ran parallel to the Joburg Indaba, an annual conference that seeks to stimulate robust debate among all mining industry stakeholders, the team hosted a breakfast to create a platform for engagement with mining companies on the research findings and the implementation of the business integrity evaluation tool.

Several meetings held towards the end of 2019 have helped to confirm participation in the business integrity screening evaluation by several leading mining companies. Implementation of the tool and evaluation with the mining companies will take place in the first two quarters of 2020.

# TRANSPARENCY AND ACCOUNTABILITY IN SOUTH AFRICA'S MINING ROYALTIES SYSTEM

The Open Society Foundation (OSF) of South Africa identified the need for a project aimed at improving transparency and accountability in South Africa's mining royalties system. The funding from OSF enabled the CW team to focus on mining-affected communities along the eastern part of the platinum belt in Limpopo, and the Bakwena ba Magopa community in the North West, the result of which was a report released in March 2019, which shared the findings and recommendations.

The report highlighted concerning trends of corruption, maladministration and lack of transparency regarding community funds, specifically those still under provincial government management.

Recommendations included formulating a multi-stakeholder best practice forum and advocating for an independent ombudsman in this particular area of the sector. The team held a two-day report-back session in the communities on the investigative findings and updates on CW interventions.

This intervention has brought to light the rich data that communities possess in

relation to mining royalties, and the need for an open platform, on an ongoing basis, for communities to receive updates on CW interventions, and to contribute to recommendations concerning this key risk area, through strategic partnerships with local radio stations and SMEs.

The CW channel for reporting corruption also illustrates an increasing number of reports detailing misappropriation of community funds. The concern is that incredible amounts of money continue to be looted, or missing millions remain unaccounted for under provincial government custodianship with very little action. The first phase of the intervention was to engage with the Standing Committee on Public Accounts in early 2019 and to request an intervention through the establishment of a judicial commission of enquiry, to which there has been no response. The intervention strategy also includes plans to engage with the Auditor-General in the context of the Public Audit Amendment Act which gives the Auditor-General more powers to request transparency from provincial government.



The increase in the number of reports indicating maladministration and mismanagement of community funds in different communities across the country led the team to conduct information-gathering and awareness-raising community engagements in the North West, Limpopo and Northern Cape Province. A total of 896 people attended these sessions, and 106 reports of corruption were received, further illustrating the pervasive corruption in these isolated, disempowered communities. Most of the reports indicate gross human rights violations, severe levels of poverty, lack of development and lack of access to basic services. A selected few reports have been noted for further forensic investigations.

The team plans to approach the Special Investigating Unit to encourage them to open an enquiry into maladministration and corruption in the administration of mining royalties. There are also plans to request the intervention of relevant oversight bodies such as the Standing Committee on Public Accounts and the Auditor-General.

Interest in mining royalties was also boosted by the publishing of the report of the Baloyi Commission of Enquiry into the Bakgatla ba Kgafela community in the North West, regarding mining royalties. The report focused on the traditional succession and financial corruption into the mining royalties of that community. The commission essentially arrived at conclusions and recommendations similar to those arising from CW's work in this area.

This report presented an opportunity to create awareness and sustained advocacy and the CW team hosted a critical reflections roundtable with all the key stakeholders to discuss the report and joint collaborations in future, and to ensure that the recommendations mentioned in the report are enforced by the premier's office. A letter was drafted to the premier enquiring about

the status of some of the recommendations and the corresponding timeframes.

The aim is also to offer to provide a transparent participative screening service to the provincial government in 2020, to aid in the appointment of officials as interim administrators in the Bakgatla ba Kgafela council tasked with managing the royalties of the community. Also planned is a call for a commission of enquiry in relation to the Bakwena ba Mogopa community case study, and advocacy around the creation of an ombudsman in this sector.

The growing number of reports received regarding the mismanagement of community royalties, and the significant amounts of money that have been stolen, looted or diverted, require an elevation of these findings to a regional platform. The intention is to place pressure on government to account for these funds, or implement urgent interventions and mechanisms to address this key issue within the sector.

**“CORRUPTION IN THE MINING SECTOR HAS NEGATIVE CONSEQUENCES FOR COMMUNITIES AND THE ENVIRONMENT, AS WELL AS THE ECONOMIC WELL-BEING OF ENTIRE COUNTRIES. WHEN COMPANIES TAKE SHORT CUTS AND OFFICIALS TURN A BLIND EYE TO VIOLATIONS OF THE LAW, THE EFFECTS, PARTICULARLY IN EXTRACTIVE INDUSTRIES SUCH AS MINING, CAN BE DISASTROUS AND FAR-REACHING” – JOHAN VAN DER WALT, SENIOR MANAGING DIRECTOR, FORENSIC AND LITIGATION AT FTI CONSULTING; HELENA POTGIETER, MANAGING DIRECTOR, FORENSIC AND LITIGATION AT FTI CONSULTING**

– [HTTPS://WWW.DAILYMAVERICK.CO.ZA/OPINIONISTA/2020-02-04-HOW-TO-STIFLE-CORRUPTION-IN-THE-MINING-SECTOR/](https://www.dailymaverick.co.za/opinionista/2020-02-04-how-to-stifle-corruption-in-the-mining-sector/)





# LEGAL AND INVESTIGATIONS

The work of the CW legal and investigations team is focused on a range of activities and interventions that rely on relevant expertise and knowledge to highlight the impact of corruption on people's lives and the country as a whole. These include activities that strengthen support for whistle-blowers, rely on investigative capacity to expose corruption and call on relevant law enforcement agencies for action, identify weaknesses and loopholes in legislation and policy, and put forward cases in the courts that are within the public interest, and in which our participation is a critical factor.

## LITIGATION IN 2019

The Corruption Watch legal team continued to pursue several high-profile legal cases with a strong public interest element during 2019, some of which have been long-running matters spanning several years, but which finally bore fruit over the course of the year.

These cases were originally chosen for their suitability for highlighting the damaging effects of corruption, and for their impact in terms of their contribution to the broader fight against corruption.

## SEEKING TRANSPARENCY IN THE GRANTS ADMINISTRATION SYSTEM

Cash Paymasters v Corruption Watch and 2 others (Case No. 1029/18)

This was an important case involving the payment of R316-million from Sassa to CPS in a case that CW had first taken to the High Court in March 2015. This particular matter, ongoing since 2018, is an appeal against the judgment of the North Gauteng High Court in Corruption Watch v Cash Paymaster Services (CPS) and Others (Case No. 21904/15) handed down by Judge Moroampholo Tsoka.

In it the court declared invalid the decision of the CEO of the South African Social Security Agency (SASSA) to pay R316-million to CPS, through a variation to the main agreement. As a result it was set aside, and CPS ordered to pay back the amount with interest.

The case was argued in the Supreme Court of Appeal (SCA) on 10 September 2019, and judgment handed down on 30 September 2019, with the SCA finding in Corruption Watch's favour.

**"CORRUPTION WATCH IS FORTUNATE TO WORK WITH SOME OF THE TOP SENIOR COUNSEL THAT THE COUNTRY HAS TO OFFER, WHO OFTEN GIVE THEIR TIME BECAUSE THEY BELIEVE IN CW'S WORK.**

**WORKING IN PUBLIC INTEREST LITIGATION IS PARTICULARLY FASCINATING BECAUSE IT USUALLY ATTRACTS PEOPLE WHO ARE INTERESTED IN MATTERS OF PUBLIC INTEREST, SO THEY'RE WORKING TOWARDS MAKING SOUTH AFRICA BETTER.**

**THESE ARE ALL GIANTS OF THE PROFESSION WHO ARE GIVING UP THEIR TIME, PUTTING A LOT OF EFFORT INTO HELPING US WITH THESE MATTERS. IT'S FASCINATING LAW"**

– TARA DAVIS, CW IN-HOUSE ATTORNEY



IN THIS NATION WE WILL STAND AGAINST TYRANNY  
IN THIS NATION WE CAN CLEAN UP THE STREETS  
BECAUSE WE KNOW THAT'S GOING TO MAKE A DIFFERENCE  
BETWEEN INTEGRITY AND DISHONESTY. THIS IS OUR  
DEFINING MOMENT → THE WRITING IS ON THE WALL







The SCA held that all services provided by CPS were included in the original contract and that the additional payment of R316-million was therefore unlawful and invalid. The court upheld the High Court's judgment and awarded costs to Corruption Watch.

Although CPS appealed to the Constitutional Court in a last-ditch attempt to avoid paying back the money, the Constitutional Court held that there was no reasonable prospect of success and the matter was not within its jurisdiction. The case was dismissed in February 2020.

## **CORRUPTION WATCH (RF) NPC V ESKOM HOLDINGS SOC LIMITED AND 6 OTHERS**

In November 2018 CW lodged an application against five former board members of Eskom asking the court to declare them delinquent in terms of section 57(1)(c) of the Companies Act and the Public Finance Management Act. Under the Companies Act, serious breaches of fiduciary duties allow for any person to lodge an application for the removal of

directors, and applications may be brought by specified individuals for directors to be declared delinquent. The former board members are Mark Pamensky, Anoj Singh, Brian Molefe, Venete Klein, and Zethembe Khoza.

Only two answering affidavits were received, from Klein and Pamensky, and as a result this case had been referred to case management.

All remaining respondents were ordered to file their answering affidavits by 13 December 2019 and Corruption Watch will file a consolidated reply in the first quarter of 2020.

**"THIS CASE DEMONSTRATED THE CLOSE CONNECTIONS BETWEEN THE PUBLIC AND PRIVATE SECTORS IN FACILITATING CORRUPTION, AND SO THE COURT FINDING THAT CPS HAD TO PAY BACK WHAT THEY WERE NOT ENTITLED TO IS AN IMPORTANT REMINDER TO SOUTH AFRICAN COMPANIES THAT THEY CAN NO LONGER ENRICH THEMSELVES BY ENTERING INTO DODGY CONTRACTS WITH PUBLIC ENTITIES"**

– CAROLINE JAMES, LAWYER, CORRUPTION WATCH

**"CW IS ASKING THAT THE FIVE RESPONDENTS BE DECLARED DELINQUENT, WITH THE CONSEQUENCE THAT THEY WON'T BE ABLE TO SIT ON BOARDS. WE ARE ASKING FOR SEVEN YEARS FOR PRIVATE COMPANIES AND FOR THEIR LIFETIME FOR STATE-OWNED ENTITIES"**

– TARA DAVIS, CW IN-HOUSE ATTORNEY

## **CORRUPTION WATCH AND RIGHT TO KNOW V THE ARMS PROCUREMENT COMMISSION AND OTHERS (CASE NO. 81368/16)**

The judgment handed down in the North Gauteng High Court on 21 August 2019 represented a significant victory for

Corruption Watch and civil society partner Right2Know Campaign, and a vindication for their dogged efforts to have the findings of the arms procurement commission (the Seriti Commission) reviewed and set aside.

The unanimous decision by Judge Presidents Mlambo, Leeuw, and Davis clearly established that the findings of commissions of inquiry are subject to judicial review.

Importantly, those who have claimed exoneration on the basis of the findings of the Seriti Commission are no longer able to do so.





This matter affirms the efforts over the years of more than 40 civil society organisations and whistle-blowers that ensured that the attempted whitewashing of the corruption in the arms deal did not succeed.

What this process brought to light is that in future, commissions of inquiry must conduct their investigations in accordance with the principle of legality and rationality. Corruption Watch and Right2Know set out how the commission fell short of this standard by failing to gather easily accessible evidence, refusing to admit key documents into evidence, and failing to test the veracity of witness testimony or evidence.

## ROBERT MCBRIDE AND IPID V MINISTER OF POLICE AND THE PORTFOLIO COMMITTEE ON POLICE

At the beginning of 2019, Corruption Watch made an urgent application as amicus to the Pretoria High Court, to compel the parliamentary Portfolio Committee on Police (PCP) to make a decision on the renewal of former IPID head Robert McBride's contract for a further five years in terms of section 6(3) (b) of the IPID Act, prior to the end of his term on 28 February 2019.

**"THE CASE WAS TRAIL-BLAZING  
IN MORE WAYS THAN ONE. IT WAS  
PARTICULARLY LEGALLY FASCINATING  
BECAUSE IT WAS THE FIRST TIME  
THE COURT HAD TO DETERMINE  
WHETHER OR NOT A COMMISSION OF  
ENQUIRY COULD BE REVIEWED BY  
A COURT. IT WAS REALLY EXCITING TO  
MAKE PRECEDENT"**

– TARA DAVIS, IN-HOUSE ATTORNEY, CORRUPTION WATCH

On 12 February 2019 the matter was settled by agreement by the parties and the PCP decided not to renew the contract of the former IPID head on 28 February 2019. The Helen Suzman Foundation, the other amicus in the matter, has appealed the decision of the court to make the settlement agreement

an order of court on the grounds that the agreement was unconstitutional.

They failed in their appeal to the High Court and received an adverse costs order. The HSF is appealing the decision to the SCA and CW is watching developments in this matter closely.

The new and permanent head of IPID had not been appointed by the end of the year, although police minister Bheki Cele has promised that this will happen by March 2020.

# STRATEGIC INTERVENTIONS

## COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE

In April 2019, Corruption Watch and the Institute for Security Studies (ISS) made a joint CW/ISS submission on the capture of the criminal justice system to the Commission of Inquiry into Allegations of State Capture, also known as the Zondo Commission. One of the key findings of the study was that organised crime flourished under Jacob Zuma's presidency as South Africa's criminal justice agencies were manipulated for political and personal gain.

## CIVIL SOCIETY WORKING GROUP ON STATE CAPTURE

Corruption Watch is part of the Civil Society Working Group on State Capture, an informal, open coalition established in late 2018 and comprising over 20 civil society organisations. The group is committed to ensuring accountability for crimes linked to state capture in South Africa, and the effectiveness of the Zondo Commission to help make this happen. It works independently of the commission and has itself made evidence-based submissions to the commission, supported by a collective advocacy strategy. Open Secrets acts as convenors of this group.

During the course of the year, several key figures in the state capture area addressed the group as guest speaker, including Terence Nombembe, head of investigations at the Zondo Commission, and Advocate Hermione Cronje, head of the investigative directorate at the National Prosecuting Authority.





## PEOPLE'S HEARING ON STATE CAPTURE

Corruption Watch was represented at both a workshop on 11 October to consolidate all submissions made by the working group to the Zondo Commission, and at the #PeoplesHearing (on State Capture) that took place at Constitution Hill on 12 October. The aim of the People's Hearing was to highlight concerns around corruption, looting and crime which the Zondo commission on state capture will be asked to address.

The hearing was chaired by a panel comprised of political analyst and women's rights activist Nomboniso Gasa, transitional justice expert Yasmin Sooka, and human rights defender and spokesperson for the Amadiba Crisis Committee, Nonhle Mbuthuma. The CW team produced an article on the event.

## LEGISLATION / SUBMISSIONS

CW is committed to participating in the processes that result in fair, effective laws that benefit all South African residents. This work is focused on addressing corruption, and includes selected and targeted interventions and amendments, for the legislation governing issues such as Broad-Based Black Economic Empowerment (BBBEE) and the Protected Disclosures Act, the draft Political Party Funding bill, as well as the 2019 white paper on Home Affairs.

## PUBLIC PROTECTOR JUNE 2019

The Office of the Public Protector is a key Chapter 9 institution tasked with combating

corruption in the country, and Corruption Watch has a vested interest in the proper and effective functioning of that office. The main focus of this intervention is on the broad question of whether the incumbent, Advocate Busisiwe Mkhwebane, is competent to occupy this office.

In July 2019, CW sent a letter to the Speaker of Parliament and the parliamentary Portfolio Committee on Justice and Correctional Services, outlining the concerning conduct of the public protector and requesting an inquiry into her fitness to hold office.

In partnership with other civil society organisations, CW is playing a leading role in campaigning for the removal from office of the public protector.

## CASH PAYMASTER SERVICES B-BBEE COMMISSION COMPLAINT

During the course of 2019, CW followed up on an investigation by the B-BBEE commission into the B-BBEE credentials of CPS. In terms of the B-BBEE Act, the commission had until February 2019 to finalise the investigation, but they had communicated in late 2018 that they were running behind schedule. In response to a letter from CW enquiring about progress, the commission confirmed that the report was to be published on 31 May 2019, but this did not happen. Further follow-ups resulted in assurances that the investigation would be completed by the end of September 2019, which again did not happen. The experience of dealing with the BEE commission, throughout the year, has been a wholly negative one.

## SUBMISSIONS ON THE 2019 WHITE PAPER ON HOME AFFAIRS

On Monday 18 February 2019 CW made submissions on the 2019 white paper on Home Affairs, after the Department of Home Affairs put out the call for comments towards the end of January.

## SUBMISSIONS TO THE PARLIAMENTARY PORTFOLIO COMMITTEE ON POLICE IN RESPECT OF THE RENEWAL OF THE CONTRACT OF THE HEAD OF IPID

On 20 February 2019, Corruption Watch made submissions to Parliament's Portfolio Committee on Police on the process to determine the renewal of the contract of the executive director of the Independent Police Investigating Directorate.





# INVESTIGATIONS

The investigations undertaken during 2019 ranged across different sectors and corruption-related matters, including procurement, the awarding of mining royalties, corruption in schools, financial mismanagement, corruption in state-owned enterprises, and health-related corruption cases, which are referred to the investigation team at the Health Sector Anti-Corruption Forum.

## AMONG THE REPORTS SELECTED FOR INVESTIGATION, SOME OF WHICH ARE ONGOING, ARE:

**1** A deep dig to expose corruption at the Johannesburg Roads Agency (JRA), involving financial mismanagement and procurement-related issues, and the subsequent failure of the JRA to address the allegations or institute remedial actions.

**2** An investigation into alleged corruption in the awarding in Ekurhuleni of a major tender for portable chemical toilets, which raises similar issues to an earlier report about a portable chemical toilet tender published by amaBhungane in July 2019. The team is currently awaiting a response to a request for documents under the Promotion of Access to Information Act 2000.

**3** A case alleging acts of irregular procurement and corruption at the Airports Company South Africa, and their subsequent confirmation that an investigation will be conducted into the allegations.

**4** An investigation into alleged procurement corruption by a service provider contracted by the Eastern Cape Department of Education, following which the department provided written confirmation that an internal investigation would be carried out.

**5** A case providing details of procurement irregularities and irregular payments to 'ghost' accounts at the JB Marks municipality.

The team is looking forward to collaboration links on the upcoming second phase of Project Lokisa. The first phase of the project was in 2016, focusing on how corruption impacts those seeking legal protection in South Africa, specifically refugees and asylum seekers.

**"MEMBERS OF THE TI CHAPTERS THAT WERE PRESENT IN BERLIN DECIDED THAT WE WILL WORK TOGETHER TO INVESTIGATE ISSUES THAT RELATE IN OUR RESPECTIVE COUNTRIES. THAT COLLABORATION HAS STARTED ALREADY"**

AS PART OF STRENGTHENING CW'S INVESTIGATIVE CAPACITY, ZANELE MWALE, A SENIOR FORENSIC INVESTIGATOR FOR CW'S LEGAL AND INVESTIGATIONS UNIT, ATTENDED A WORKSHOP IN BERLIN WITH OTHER TRANSPARENCY INTERNATIONAL CHAPTERS, THE AIM OF WHICH WAS TO BUILD RELATIONSHIPS ACROSS THE TI NETWORK AND FACILITATE COLLABORATIVE WORK ON CROSS BORDER CORRUPTION CASES





# PUBLIC FUNDRAISING

INTERVIEW: PATIENCE MKOSANA

## THE POWER OF GIVING

When Patience Mkosana joined CW as a communications officer in 2012, little did she know that she would one day be heading up one of the most demanding yet fulfilling tasks on behalf of the organisation, that of fundraising manager.

The public fundraising idea germinated in 2015, when a strategic support consultant placed in CW by the Deutsche Gesellschaft für Internationale Zusammenarbeit helped the organisation develop a model for the project. Daniel Harbig began mentoring Mkosana in her new role, which she found daunting at first, but gradually eased into.

"I was asked to manage the fundraising project beyond Daniel's term, which was to end in early 2017," says Mkosana. "At first, I wasn't sure if I would be able to do the job as my background was communications and I had been working as a communicator for four years."

A few weeks into her new role, she "fell in love" with it. "I am happy to have been open to the change in career, otherwise I wouldn't have learnt so much about giving and the power it has."

Fundraising, she adds, plays quite an important part in any organisation, especially one that relies on donations to get a lot of its work done. It is important for an organisation to make use of strategic, targeted fundraising tools as this can be quite impactful. But the impact can only be felt if the person occupying that position works really hard. "The job requires, from my own observations, a person who is extremely focused, tenacious, and success driven."

Mkosana explains that funding from foundations and philanthropic organisations accounts for most of the organisation's income, but targeted public donations campaigns, such as the SASSA one, remain vital.

A more recent campaign involves legal action against several former board members of Eskom. CW applied in late 2018 to the North Gauteng High Court to have the five – including former CEO Brian Molefe – declared delinquent. A few months after the application, CW placed a full-page advert in the Business Day, depicting the five in mugshot-like images and making a donation plea from readers to help bolster the legal effort. The advert, explains Mkosana, is in line with the principle of accountability by public officials, for which CW is known.

"Board members hold powerful positions and should be held accountable when they fail to do their job. It was one of the successful public fundraising efforts which saw people donating money even after we had reached our target, which was set at about R500 000 over two weeks. People believed in us, in what we can do."

The success of the campaign can be attributed to the fact that Eskom had in that

period been struggling to keep the lights on, affecting millions of people and businesses. People wrote e-mails to Corruption Watch, thanking the organisation for having taken the initiative. "People were pleased that we were doing something by ensuring that those who have to be held accountable, like the directors, are made to account for failures at Eskom or other state-owned enterprises."

More about the case itself can be found in the legal and investigations section of this report.

As is the case with all other areas of CW's work, it is important to practice the principle of transparency in the public funding drives. When it comes to accepting donations, Mkosana says CW has a strong policy of not accepting money from anonymous donors/funders, with the exception being a donation of less than R1 000.

It would be disingenuous of CW, she adds, to preach transparency while it was not practising that in its own operations. The organisation goes through what Mkosana describes as a vigorous process of making sure that people who donate to the organisation are not questionable. "We do vet individuals, businesses and organisations that want to donate to us, whether in-kind or in monetary value."

According to Mkosana, a total of just over R1.4-million was raised during 2019. Funds collected for specific, targeted campaigns are distributed accordingly to augment the budgets related to those projects.

The crowdfunding efforts related to the Discovery 947 Ride Joburg race, which was held in November last year, garnered more than R89 000. A member of CW, who was a participant, was positioned as an ambassador of the cause. Earlier in the year he had participated in the Ironman Race, which raised just over R100 000 for CW.





"Some of the funds are spent on legal costs that we incur during litigation," says Mkosana. "We also used the funds for marketing purposes, even though for the most part we prefer cutting costs by engaging organic marketing practices like word of mouth or social media."

To ensure security of the funds received electronically, an accounting system is used that monitors all donations.

Mkosana says she is always looking for innovative ways to get people to support CW's anti-corruption initiatives. "This year we are looking to extend our donor base through peer-to-peer fundraising," she says.

"We have launched our birthday fundraiser, the #gifts4impact programme, to allow our supporters to donate their birthday gifts to CW." Mkosana says the programme will enable the organisation's supporters to reach out to their networks and ask for donations in support of our work while celebrating their special day.

Corporate funding is also in Mkosana's sights for 2020. "We will be engaging corporates to start playing an active role by committing to supporting establishments such as CW."

CW is creating avenues to get people involved in its fundraising drives. If people have ideas on how we can achieve our fundraising objectives, says Mkosana, they are welcome to share with us.

# ZONDO COMMISSION

In August 2018, when the commission of inquiry into state capture, now known as the Zondo commission, kicked off, Corruption Watch made the decision to cover this event with the aim of providing easily-accessible articles on the proceedings intended for community media outlets and channels who do not have the resources or capacity to follow the commission themselves. This offering has been expanded to include civil society organisations, who have expressed appreciation of these daily updates.

## REFLECTION ON CORRUPTION WATCH'S WORK ON ZONDO COMMISSION FROM SECTION 27

SECTION 27 has followed with keen interest the Zondo Commission updates distributed by Corruption Watch.

The significance of the Zondo Commission in ensuring that those who participated in the State Capture project are exposed cannot be understated. Corruption Watch's work following and documenting the testimonies at the Zondo Commission will help South Africa not only to ensure that we are more vigilant in monitoring state and private actors and holding accountable those who have been found to be corrupt, but will also allow us, as a nation, to begin to reconstruct our democratic project.

# How to DONATE:

<b>BANK:</b>	<b>STANDARD BANK</b>
<b>TYPE:</b>	<b>SAVINGS ACCOUNT</b>
<b>ACCOUNT NUMBER:</b>	<b>00 483 4747</b>
<b>BRANCH</b>	<b>004305</b>
<b>BRANCH NAME:</b>	<b>ROSEBANK</b>
<b>SWIFT ADDRESS:</b>	<b>SBZA ZA JJ</b>
<b>ACCOUNT HOLDER:</b>	<b>CORRUPTION WATCH (RF) NPC</b>

**OR**

**ONLINE** [HTTPS://WWW.CORRUPTIONWATCH.ORG.ZA/DONATE-NOW-TO-SUPPORT-OUR-IMPORTANT-WORK/](https://www.corruptionwatch.org.za/donate-now-to-support-our-important-work/)





Valencia Talane, CW's senior journalist, has attended all the hearings at the Zondo Commission, sometimes along with junior writer, Kwazi Dlamini, and has created a valuable and substantial archive of content that resides on the CW website. In addition, since February 2019, a number of articles have been commissioned by the media stable, Independent Newspapers, and published regularly in their three weekend newspapers, namely *Sunday Independent*, *Sunday Argus*, and *Sunday Tribune*.

**"THEY'RE SO VERY USEFUL. IT IS SELDOM THAT I CAN GET TO WATCH OR FOLLOW THE COMMISSION'S PROCEEDINGS, BUT READING THE CORRUPTION WATCH SUMMARIES GIVES ME A VERY CLEAR PICTURE OF WHAT IS HAPPENING THERE. ALL I CAN SAY IS THAT THEY ARE PRESENTED AND PRODUCED VERY PROFESSIONALLY. ABSOLUTELY FANTASTIC!"**

– MAVUSO MSIMANG, CHAIRPERSON, CORRUPTION WATCH

**"THE METICULOUS DAILY REPORTS BY THE CORRUPTION WATCH TEAM PROVIDE A LEVEL OF DETAIL IN DOCUMENTING THE EVIDENCE HEARD BY THE ZONDO COMMISSION, THAT ENABLE THE FACT CHECKING AND ANALYSIS OF MEDIA COVERAGE AND THE POLITICAL RESPONSES. INVALUABLE."**

– ADI MISTRY FROST, CIVICUS

## DRAMA CONTINUES AT THE ZONDO COMMISSION

One more year of public hearings, a change of venue, and extended powers to manage hostile witnesses. All this happened in the first two months of 2020, but the commission of inquiry into state capture or the Zondo commission as it is sometimes referred to, had a tumultuous 2019.

Commission chairperson Deputy Chief Justice Raymond Zondo has more confidence than ever that once the report on his findings is completed and submitted to President Cyril Ramaphosa, it will include recommendations for criminal charges, among others. He also believes that Ramaphosa will do the principled thing and not only adopt recommendations, but share these with the rest of the country.

On the question of whether former president Jacob Zuma will return to the witness chair this year, Zondo could only protect his process: "Whether or not the commission ends up hearing from former president Jacob Zuma or members of the Gupta family implicated in the evidence of witnesses who have appeared before it, the show will go on and it will conclude its work without their input," he told this to journalists gathered in January for a briefing, a rare occasion for him since the start of the public hearings in August 2018.

Citing illness as the reason their client could not avail himself before Zondo, Zuma's lawyers assured the DCJ that he does indeed support the work of the commission and will not avoid appearing. In the meantime, however, commission staff continue to go after senior government officials implicated in capture, with more subpoenas issued recently to a number of witnesses.

## BOSASA BRIBES

However much the events of last year may seem like a distant memory for many, there is no denying the impact on politics by some of the explosive evidence unearthed during that time. For one, it will be a while, however, before most South Africans forget Angelo Agrizzi, the witness who kicked off proceedings in January 2019, implicating everyone from his former boss and director of Bosasa, the now late Gavin Watson, to Zuma himself.

This before admitting on national television that he was racist and was to some extent motivated by this in his conduct at Watson's side, in corrupt dealings during his time as COO at the facilities management company.

Among those implicated by Agrizzi and queuing up for a chance to cross-examine him are mineral resources minister Gwede Mantashe and Armscor CEO Kevin Wakeford, both accused by Agrizzi of benefitting from irregular favours from Bosasa. Watson himself was due to appear before Zondo at the time of his unexpected death by car accident in August. The commission's own secretary at the time, Khotso de Wee, was also implicated by Agrizzi as having been part of a bribe scheme while he was COO at the department of justice, as was Pretoria chief magistrate Desmond Nair, who was recently suspended over misconduct charges. De Wee was put on special leave by Zondo pending an investigation by the commission.

Agrizzi's explosive testimony of bribes given to senior politicians to help keep Bosasa afloat on irregular contracts with the department of correction services since the early 2000s led to his arrest by the Hawks, along with five other suspects who included former DCS commissioner Linda Mti. The case is still pending.





Agrizzi told of “monopoly money” distributed by Watson as part of an elaborate bribery scheme that saw up to R6-million being paid to politicians and government officials alike every month.

Among those alleged to have received money or goods and services from Bosasa were Nomvula Mokonyane and Zuma, whose bribe was disguised as a monthly donation of R300 000 to his foundation.

## STATE-OWNED ENTERPRISES

Still on a high from Bosasa, the commission went on to Eskom, the first of the state-owned entities to be explored. Of great interest was the apparent privilege enjoyed by the Gupta family in Eskom’s energy generation drive, after the arrival of former group CEO Brian Molefe in early 2015. Molefe had come to Eskom from Transnet, from where it would be revealed later he allegedly carried over the same favouritism towards Gupta-associated companies.

From the testimony of former mineral resources director-general Thibedi Ramontja, Zondo heard of the sidelining of senior staff once Mosebenzi Zwane became minister. Ramontja claimed Zwane centralised all matters relating to the Optimum coal mine – which was in the Guptas’ sights at the time – to his office. Zwane’s predecessor Ngoako Ramatlhodi testified that he believed Zuma removed him for refusing to buckle under pressure from the Guptas in relation to mining rights.

Former Optimum CEO Clinton Ephron told how Zwane went on to bully owners Glencore into selling Optimum to Gupta-owned Tegeta Minerals, backed by Oakbay Investments, in December 2015.

Oakbay turned out to not have the money for the purchase, according to the mine’s business rescue practitioner Piers Marsden, but a sudden windfall from a pre-payment by

Eskom to Tegeta for a separate coal-supply agreement saved the day in April 2016. It was organised through an irregular coal contract with Eskom.

Transnet’s fate under Molefe, before he moved to Eskom, appeared to be characterised by the same bias towards Gupta-linked companies like Regiments and Trillian. The parastatal’s ambitious procurement project for 1 064 locomotives in 2014 saw an estimated cost of R38-billion inexplicably escalate to R54-billion, with motivation from Molefe.

An investigation by law firm Mncedisi Ndlovu Sedumedi, commissioned by a later board in 2018, found that the escalation was irregular as it did not seek the required permission from the minister. Within months of Transnet securing the winning bids, Gupta-linked Regiments had earned a cool R265-million for work not done, having edged its way into the winning consulting consortium facilitating the cost negotiations with bidders.

South African Airways’ evidence told of the interference of the Dudu Myeni-led board in a 2015 procurement process for a R14-billion consolidation loan, with the help of a conflicted “fixer”, Masotsha Mngadi, who doubled as advisor to Myeni while also linked to the service provider appointed to source the funds in question.

## WATERKLOOF LANDING

One of the most compelling testimonies of last year had to be that of former ambassador to the Netherlands, Bruce Koloane, who appeared under subpoena in July. Initially defensive of his 2013 approval of the Waterkloof airforce base landing of a private plane with guests of the Gupta family from India on board, Koloane did an about-turn and confessed to abusing his position as chief of state protocol, instructing army officials to expedite clearance for the landing.

His confession, however, only came after he

was presented with audio recordings of his conversations with the officials in question, where he instructs the expedition of the clearance and later follows up. Koloane admitted to name dropping, using Zuma to prompt a speedy response in order to impress then Indian high commissioner Anil Kumar Gupta.

After six years of denials from Koloane, he told the commission: “I would like to admit that I did what has now become popularly known as name dropping, merely to push officials who were supposed to process the flight clearance to do their job.” He resigned in September after being recalled by international relations minister Naledi Pandor from the Netherlands.

## JACOB ZUMA

Using Koloane’s confession to help bolster his argument of a conspiracy against him, Zuma defended his relationship with the Guptas when given the opportunity to make an opening statement prior to his questioning in July. Like Koloane, said Zuma, many people use his name in vain, sometimes to vilify the Guptas, to whom he feels indebted for their loyalty and support to his family. Zuma went on to outline what he called a long-standing campaign against him within the ANC, by detractors whose only objective is to discredit and destroy him using processes like the commission itself.

With a week set out just for him, there turned out to be little in the line of evidence and plenty of objections to procedure from his lawyers, who eventually pulled out, citing unfair questioning. Before that, though, Zuma reiterated his position that he had not been directly implicated by any witnesses. Zondo’s team brokered an agreement with Zuma’s lawyers for his later return, and despite the dates for two more week-long appearances being made public, the former president was a no show for either.

## VREDE DAIRY FARM

With Zuma’s dramatic exit having disrupted proceedings the week before, when the commission regrouped it was to hear evidence related to the Vrede dairy farm project in the Free State. Over the next few months, evidence would be heard in dribs and drabs of how a legitimate-sounding concept of government initiating a community-based project to help uplift small-scale farmers from the nearby township of Thembelihle, was run down by greed and corruption.

The provincial department of agriculture led the project, with Zwane as MEC. So committed was Zwane to the project, said witness and former opposition councillor Albert Radebe, that he led the lobbying for the Phumelela municipality to make land available for the farm.

When the land was eventually secured, Indian dairy company Paras – brought in as partners by department head Peter Thabethe – started procuring equipment. For Paras to engage in business with a government entity, it needed a South African partner, and so Gupta-linked Estina entered the picture as implementing agents. The company had only R16 in its business account when a prepayment of R30-million was approved by Thabethe in mid-2012. He admitted that a sufficient due diligence was never done on the company. In the initial project proposal, it was claimed that Estina would invest R228-million, but this never happened.

One of the potential beneficiaries, small-scale farmer Ephraim Dhlamini told the commission of the lack of support from the department and the losses his community incurred. When the project was investigated by the public protector Busisiwe Mkhwebane, even more disappointment followed, said Dhlamini, as she failed to engage with him and fellow farmers.



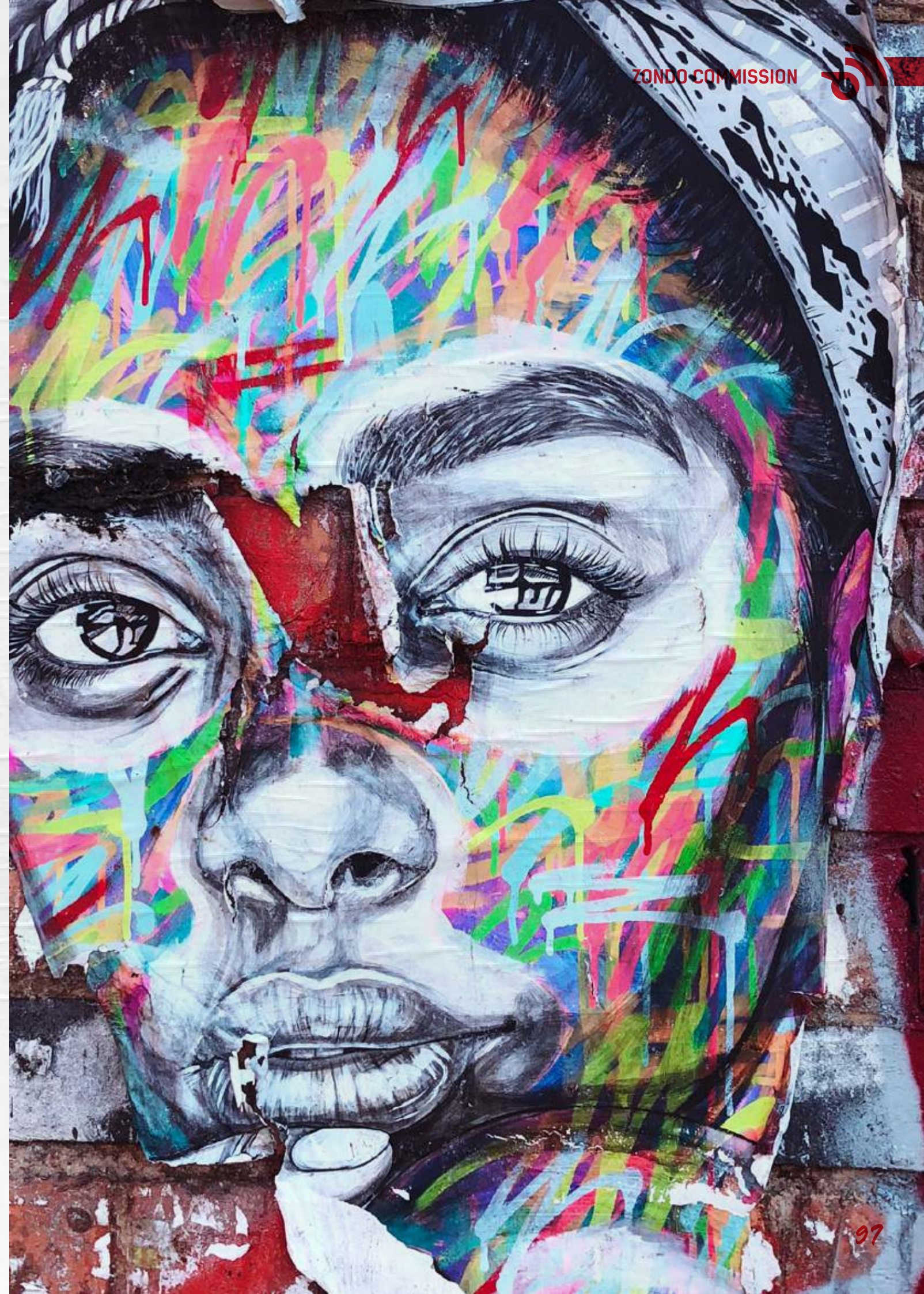
## DUDUZANE ZUMA AND FANA HLONGWANE

In his testimony in 2018, former deputy finance minister Mcebisi Jonas claimed Duduzane Zuma and Fana Hlongwane were both present in a late 2015 meeting at the Guptas' Johannesburg residence when Ajay Gupta allegedly tried to bribe him. Both the latter men have had the opportunity to respond to the claim, albeit under subpoena on Hlongwane's part. They rejected the claim, corroborating each other's versions that a meeting did occur, but Gupta was not in it, and its contents differed greatly from what Jonas claimed. It was instead a meeting of just the three of them to help iron out personal issues between Jonas and Hlongwane, but this was not achieved, said Hlongwane.

## INTELLIGENCE INVESTIGATION INTO GUPTAS

Former head of foreign intelligence Mo Shaik along with former colleagues Gibson Njenje and Jeff Maqetuka appeared in the last week of November to reveal how in 2011 a probe into the dealings of the Gupta family was halted by then state security minister Siyabonga Cwele, before being canned by former president Jacob Zuma. Had this not happened, said Shaik, the controversial business family would probably not have enjoyed the level of access to state functionaries and their departments that many witnesses have attested to.

A version of this article appeared in the Sunday Tribune in December 2019







# BOARD MEMBERS

Corruption Watch had eight sitting board members in 2019. They help to steer the course of our work and provide valuable insight and experience across a range of sectors in which they operate. They help to ensure that all legal requirements are met, that workplace policies and governance issues are observed, that the financial health of the organisation is intact, and that the strategic direction of the organisation addresses the needs of our society.



## MAVUSO MSIMANG – CHAIRPERSON

Msimang is the former CEO of the Oliver and Adelaide Tambo Foundation, and also previously served as the director-general of the national Home Affairs department and CEO of SANParks. He sits on the board of WWF South Africa. His non-executive board directorships include Harmony Gold, the African Parks Network and the Peace Parks Foundation, and he is a former chairperson of the iSimangaliso Wetland Park, a world heritage site.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#msimang>



## DAVID LEWIS – EXECUTIVE DIRECTOR

Lewis 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.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#lewis>



## ADILA HASSIM – ADVOCATE AND JUNIOR COUNSEL AT THULAMELA CHAMBERS

Adila Hassim is an advocate and a founding member of Corruption Watch. She is currently junior counsel at Thulamela Chambers. Hassim earned a BA and LLB from the University of Natal. After completing her degrees, she later earned an LLM from the Saint Louis University School of Law in the US, and a JSD, or doctorate in law, cum laude from the University of Notre Dame Law School. She is a member of the Johannesburg Bar and was admitted as an advocate of the High Court of South Africa in 2003. A prolific author, Hassim 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 (TAC).

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## **ALICE L. BROWN – INTERNATIONAL HUMAN RIGHTS ADVOCATE**

Brown 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. Brown 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 and the South Africa – United States Fulbright Commission, and an alumna of Common Purpose South Africa.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#brown>



## **DR MZUKISI QOBO – AUTHOR, THOUGHT LEADER, POLITICAL RISK ANALYST AND PUBLIC SPEAKER**

Dr Mzukisi Qobo advises organisations on mitigating political risks and helps them to capture opportunities from regulation. He previously worked at the Department of Trade and Industry as chief director for trade policy, and drafted the current South African trade policy and strategy framework.

Until recently he taught international political economy at the University of Pretoria, where he was deputy director at the Centre for the Study of Governance Innovation. He is a senior associate at Tutwa Consulting and a research associate affiliated with the Department of Political Sciences, University of Pretoria. He is a regular columnist for Business Day and appears regularly on domestic and international media. He obtained his PhD from the University of Warwick, UK, MA from the University of Stellenbosch; and Bachelor of Arts from the University of Cape Town. Qobo is author of *The Fall of the ANC: What Next?* published by Pan Macmillan (Picador Africa).

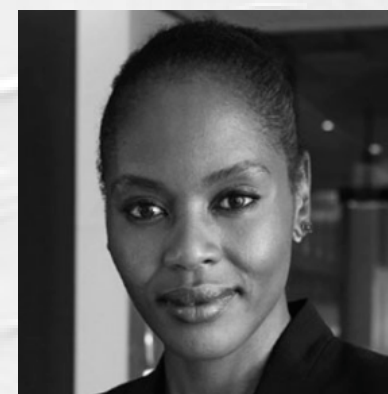
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## **SITHEMBILE MBETE – POLITICAL SCIENCE LECTURER**

Mbete is a lecturer in the Department of Political Sciences at the University of Pretoria where she lectures in international relations and South African politics. She is also a doctoral candidate at the university, writing a thesis on South Africa's foreign policy during its two terms in the UN Security Council. Mbete joined the University of Pretoria from the Presidency, where she was a researcher in the secretariat of the National Planning Commission. Her work in this regard was focused on public service reform and anti-corruption policy. She contributed to the drafting of the National Development Plan. Prior to this she worked as a political researcher at Idasa (Institute for Democracy in Africa) where she was responsible for parliamentary monitoring and political analysis. While at Idasa she monitored the parliamentary deliberations on the Protection of State Information Bill, commenting on and writing about the bill in the media. She served on the provincial and national working groups of the Right2Know Campaign and helped coordinate activism against the legislation.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#mbete>



## **THABI LEOKA – ECONOMIC STRATEGIST**

Dr Thabi Leoka is an economic strategist. She has held top positions at Renaissance Capital, Standard Bank Corporate and Investing, Barclays Wealth, and Investec Asset Management – she was based in London for the latter post. She obtained her PhD and MSc in Economics from the London School of Economics, and also holds an MA in Economic Development and International Trade from Wits University, and a BA in Social Science from Wits University. Leoka is a regular columnist for Business Times in the Sunday Times, and for Money Management. In addition, she is an accomplished speaker and was an economic advisor to the Fees Commission as well as finance minister Nhlamhla Nene.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#leoka>





**FIROZ CACHALIA –  
ADJUNCT PROFESSOR**

Firoz Cachalia currently works as an adjunct professor at his alma mater, Wits University’s School of Law. His extensive career in government and civil society included his service as a member of the executive council of the provincial Gauteng government from 2004 to 2011, first in the safety and security portfolio and later in the economic development portfolio. He would later head up the provincial government’s planning commission between 2011 and 2012, the board of which he continues to sit on to date. Other boards on which Cachalia sits include the South African Reserve Bank, where he also chairs the board risk committee; Hlanganisa Institute of Development of Southern Africa; and the Helen Joseph Hospital. He is also a member of the Council for the Advancement of The South African Constitution. Cachalia was admitted as an attorney in 1993, and continued with his legal studies through Wits (LLM) and the University of Michigan in the United States. His first occupation was as researcher for the Centre for Applied Legal Studies in the early 1990s, following the completion of his legal articles.

Read more: <https://www.corruptionwatch.org.za/about-us/people/board-members/#cachalia>



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