



POLICY BRIEF

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A REVIEW OF ZIMBABWE'S LEGAL AND POLICY FRAMEWORK FOR ANTI-CORRUPTION IN ZIMBABWE

INTRODUCTION

This policy brief highlights the fundamental aspects of Zimbabwe's current legal and policy framework aimed at addressing the pervasive issue of corruption affecting the country. The increasing prevalence of 'big corruption' in Zimbabwe continues to have a detrimental impact on the nation's economic development and growth. It is well-known that the Government of Zimbabwe (GoZ) has vocally declared corruption to be an enemy; however, its actions have consistently fallen short of achieving the desired outcomes in combating this issue as the country's fortunes on global governance indicators demonstrate. The primary discussions surrounding this challenge focus on the effectiveness of the existing legal and policy framework designed to combat corruption.

These include the constitution, which is supported by several key pieces of legislation that are used to fight corruption, which is critically summarised below.

Several studies on anti-corruption have applauded the primary legislative instruments whilst also pointing to key gaps and shortcomings in the existing law. In brief, the major shortcomings are based on two perspectives, namely (i) that the laws are inadequate and more pieces of anti-corruption legislation are required, and (ii) the provisions of existing legislation are not strong enough to confront the scourge of corruption in its sophisticated shapes and forms. In this context, the policy brief seeks to provide a critical overview of anti-corruption law and policy instruments, outlining the existing gaps and shortcomings to provide concrete recommendations to inform the actions of state and government actors, and the programming by non-state actors and civil society organisations (CSOs).



At the international level, Zimbabwe is a state party to international and regional treaties which, among other things, provide obligations for State Parties to adopt policies and laws as part of the instruments required to deal with corruption in member countries. No doubt, the body of norms established by these multi-lateral frameworks, combined with lessons from a variety of jurisdictions provides a progressive set of standards, measures, and rules that all countries can apply to strengthen their legal and regulatory regimes on anti-corruption. At the national level, there are noteworthy legal and institutional frameworks that currently apply to the fight against corruption in Zimbabwe.

POLICY FRAMEWORKS FOR ANTI-CORRUPTION SOLUTIONS

The National Development Strategy (NDS) 1

The NDS 1 is the national policy blueprint that underpins all other sector-specific policy frameworks in Zimbabwe. As regards combating corruption, the NDS 1 appropriately identifies corruption as a governance challenge that must be addressed through judicial criminal justice approaches. Importantly, the NDS 1 appropriately identifies the need to combat corruption as a national priority. The NDS 1 policy goals against corruption are noteworthy and include the capacitation and strengthening of anti-corruption institutions, the development of effective legislation and the implementation of asset recovery and forfeiture mechanisms. In general, the NDS 1 provides a plausible policy foundation to support anti-corruption strategies, institutions, legislative instruments and enforcement mechanisms in Zimbabwe.

However, there are critical concerns relating to the implementation of NDS1, including the lack of buy-in from all sectors (the document was a unilateral creation by the state without widespread consultations) resulting in the lack of citizen ownership. The NDS1 anti-corruption components also have fundamental flaws in terms of the implementation matrix (does not have a dedicated financial backing) and overall coherence with the anti-corruption agenda. In other words, there is no proper implementation matrix to complement other anti-corruption efforts.

National Anti-Corruption Strategy 2020 – 2024 (NACS)

The NACS has concrete achievable objectives that underpin the anti-corruption fight, which are informed by local corruption realities and trends. For instance, the NACS demands enhancement of the structures for deterrence, detection, adherence and enforcement through strategies such as improved compliance with anti-corruption and integrity management obligations and mechanisms across sectors. Further, the strategy calls for the protection of whistleblowers and victims of corruption, to encourage active participation in anti-corruption efforts by the public. Other objectives include the pursuit to recover assets and proceeds of corruption and compensation of damages to state and individual victims of corruption; enhancing political party transparency, political will and political accountability, and supporting citizen empowerment on their rights and responsibilities related to the anti-corruption fight.

However, concerns have been raised with the practicality of NACS, in essence, the strategy is not underpinned by a strong Monitoring and Evaluation (M&E) framework to ensure the review and timely implementation of corrective measures for adaptability and remodelling. Further, there is no specific budget for implementing and monitoring the implementation of the strategy. Finally, the policy is pitched at the national level and thus lacks the sub-national level. These weaknesses must be addressed in the upcoming review of the NACS to make it ensure practical outcomes are achieved.

National Prosecuting Authority (NPA)

The NACS has not worked in isolation; it has been supported and complemented by other relevant policies, in particular the strategic plans of the chapter 13 institutions and the Judicial Service Commission (JSC). The National

Prosecuting Authority (NPA) is responsible for prosecuting criminal cases, including those involving corruption. The NPA's Strategic Plan for 2021-2025 reflects a commitment to tackling corruption through enhanced prosecution capabilities, ethical conduct, and public engagement. This action is based on a strategy that seeks to enhance the capacity of the NPA to effectively investigate and prosecute corruption offences, ensuring accountability for corrupt practices and fostering a culture of integrity. The strategy also emphasises professionalism within the NPA to prevent corrupt practices among prosecutors. However, the NPA's independence and effectiveness are often questioned, with concerns about political interference, inadequate training, and lack of resources hampering its ability to prosecute high-profile corruption cases.

The Zimbabwe Anticorruption Commission (ZACC)

The ZACC strategic plan (2020-2024) outlines the roadmap of the agency between the years 2020-2024. It explains the role of various functions and departments in achieving that vision. Over and above the description of what each department is supposed to do, the document talks about partnerships and alliances that need to be created nationally, regionally, continentally and internationally in the fight against corruption. The noteworthy operational divisions of the commission include Investigations; Prevention (ethics and public education; systems, compliance & corporate governance and research & knowledge management); Legal Services; Intelligence; External Relations and International Conventions; Media & Communication and Information and Communication Technology (ICT). What is key to highlight are the six pillars and key result areas (KRAs) by which their effectiveness will be gauged, and the purpose of this document is to interrogate whether the country's legal and regulatory framework has done justice to their attainment.

Judicial Service Commission (JSC)

The Judicial Service Commission (JSC) Strategic Plan 2021 – 2025 identifies judicial accountability as a strategic objective, where the organisation pursues a culture of judicial accountability and transparency, and the strengthening of efforts to fight corruption. An independent and robust judiciary is essential for ensuring accountability and enforcing anti-corruption laws. The critical observations in the strategy which have a bearing on fighting corruption include the need to promote ethical conduct among judicial officers to ensure impartiality and fairness in the legal system; establishing mechanisms for accountability within the judiciary, including clear channels for reporting and addressing corrupt practices; and fostering public trust in the judicial system by ensuring transparency and responsiveness to corruption-related concerns. While the judiciary has the legal mandate to adjudicate corruption cases, it faces several challenges, including political pressure, corruption within the judiciary, and lengthy trial processes that undermine public confidence.

In discharging their anti-corruption responsibilities, these three institutions are complemented by a whole range of other institutions, covering diverse tasks ranging from arrests, to tracking channels for money laundering to bring perpetrators of corruption to justice. While the policy frameworks discussed in this section are essential in combating corruption, a significant area for improvement lies in enhancing the coordination of activities between all the actors, to foster a collective effort. Currently, it appears to stakeholders that various institutions operate independently, which may limit their effectiveness. Strengthening collaborative efforts among different sectors and institutions will be crucial for improving the overall effectiveness of anti-corruption initiatives in Zimbabwe.

A CRITICAL SUMMARY OF THE ANTI-CORRUPTION LEGISLATIVE FRAMEWORK

Legislation	Major Features	Appraisal
The Constitution of Zimbabwe	<ul style="list-style-type: none"> Establishes the Zimbabwe National Anti-Corruption Commission (ZACC) and presents its mandate, roles and responsibilities and obligations in the fight against corruption. 	<ul style="list-style-type: none"> Progressive principles, institutions and mechanisms that have the potential to work effectively in the fight against corruption Comprehensive Bill of Rights and Freedoms necessary for protecting rights in the fight against corruption.
Anti-Corruption Commission Act (Chap 9:22)	<ul style="list-style-type: none"> The primary legislation establishing the Zimbabwe Anti-Corruption Commission. Creates procedures for administrative arrangements, appointment, dismissal and conditions of service of the Commission staff. Establishes the powers, responsibilities and obligations of the Commission. 	<ul style="list-style-type: none"> Predates the 2013 Constitution and is yet to be aligned Requires overhaul to strengthen the powers, responsibilities and organisation of the Commission. Does not contain anti-corruption criminal offences, or provisions for protection of whistleblowers or witnesses in corruption cases Lacks adequate provisions to promote and regulate inter-agency collaboration, asset forfeiture and the recovery of assets and proceeds of crime by the Commission.
Prevention of Corruption Act	<ul style="list-style-type: none"> Previously, it contained the major corruption crimes, namely a list of crimes classified as corrupt practises, and also classified as offences by public officers. Established an administrative system for the investigation of corrupt practices and offences by public officers. 	<ul style="list-style-type: none"> The bulk of the Act is now a shell with most of the corruption criminal offences that were in the Act transferred into Zimbabwe's Criminal Code. Several mechanisms established in the Act are now inapplicable due to the skeletal provisions that remain. The Act is effectively not being used or applied in Zimbabwe; the general feeling is that the Act must be overhauled or repealed totally.

The National Prosecuting Authority Act	<ul style="list-style-type: none"> Establishes the prosecuting authority, its structure and administrative arrangements. Identifies the powers, responsibilities and mandate of the NPA 	<ul style="list-style-type: none"> The Act provides a system for the administration of the prosecuting authority and institutional arrangements. There are several entry points for inter-agency relations with other law enforcement agencies. Mechanisms to independence of the Authority are weak and unsatisfactory and can be improved.
Audit Office Act	<ul style="list-style-type: none"> Establishes the administrative and institutional structure for the Auditor General's (AG's) Office. Identifies functions, mandates and responsibilities for the AG's office. Outlines the reporting system to be followed by state institutions and entities. 	<ul style="list-style-type: none"> The Act creates a good structure, but with very weak enforcement powers. Weak system to follow up on recommendations, recommend and impose punitive measures and conduct strict monitoring of the implementation of its recommendations.
General Notice 625 of 2020. High Court Act [Chapter 7:06] Creation of the Anti-Corruption Division of the High Court	<ul style="list-style-type: none"> Creates a specialist anti-corruption court. The Court is pitched at the relevant level in the Court's system in Zimbabwe. Identifies progressive unsophisticated procedures for adjudicating corruption crimes. 	<ul style="list-style-type: none"> It is necessary to train and capacitate judges on anti-corruption law. Limited experience in current judges on anti-corruption adjudication. Due to the nature of corruption, there is a need to develop court rules that are not sophisticated to understand or apply.
Criminal Law (Codification and Reform) Act Chapter 9:23	<ul style="list-style-type: none"> Primary code for criminal law and criminal offences in Zimbabwe Subsumed corruption offences from the Prevention of Corruption Act. Chapter IX of the Code identifies the major anti-corruption crimes, but all such crimes depend on the existence of an agent-principal relationship between persons. 	<ul style="list-style-type: none"> Amendments on the criminal offence of abuse of public office that were made in 2023 make it more difficult to achieve convictions.

Money Laundering and Proceeds of Crime (Amendment) Act, 2019	<ul style="list-style-type: none"> • It is the primary anti-money laundering legislation in Zimbabwe and also the suppression of the financing of terrorism. • To that end, its main purpose is to “suppress the abuse of the financial system and enable the unlawful proceeds of all serious crime and terrorist acts to be identified, traced, frozen, seized and eventually confiscated.” • This is achieved through a plethora of legal provisions that domesticate international standards against money laundering and terrorist financing. • Act establishes systems and structures to fight money laundering. 	<ul style="list-style-type: none"> • There is a progressive relationship between NPA and ZACC based on the Act. • Progressive provisions based on international benchmarks and best practises. • There is room for improvement of criminal offences that constitute money-laundering in view of the changing forms of these crimes.
Public Procurement and Disposal of Public Assets Act (PPDPA)	<ul style="list-style-type: none"> • Establishes the framework for government contracts, tendering and controls to prevent corruption. • Creates several strategies and mechanisms to combat, prevent and address various forms of procurement fraud. 	<ul style="list-style-type: none"> • The Act has no criminal offences – the offences are in the Regulations and appear not adequate to cover all forms of corrupt behaviour in public procurement.
Public Finance Management Act [Chapter 22:19]	<ul style="list-style-type: none"> • Establishes regime for public financial management system in Zimbabwe • Institutes structures, procedures, agencies and systems to achieve transparency, accountability, efficiency, anti-corruption and oversight in public finance. • Makes provision for mechanisms and systems to detect, thwart, punish and report corruption in the public sector. • The Public Finance Amendment Bill has been developed and awaits parliamentary processes. 	<ul style="list-style-type: none"> • The Act was introduced in 2016, and is very progressive, with best practises embedded in the provisions. • Several gaps remain in relation to punishment for financial misconduct, lack of submission of financial statements and other offences. • More systems of oversight must be embedded in the Act, coupled with adequate punitive mechanisms for non-adherence. • The Amendment Bill goes some way in improving the current system

CURRENT GOVERNMENT EFFORTS AIMED AT STRENGTHENING ANTI-CORRUPTION LEGISLATIVE FRAMEWORK

In April 2024, a stakeholder meeting was convened by the Government on the anti-corruption legislative framework. The anti-corruption convention dealt with the following key issues:

1. Consideration of two anti-corruption draft Bills, namely the Whistleblower Protection Bill and the Witness Protection Bill. The outcome of the meeting was to develop these two bills for submission to Parliament for the law-making process. The principles for these two Bills were approved by the Cabinet in 2021.
2. Consideration of the Anti-Corruption Commission Amendment Draft Bill. Draft principles for the Anti-Corruption Amendment Bill were presented, considered and applied in reviewing the Amendment Bill. This process will lead to a final draft Bill for submission to the Government before submission to Parliament.
3. Consideration of the Asset Declaration and Conflict of Interest regulatory instruments as a tool in the anti-corruption fight.

In addition, the govt is pushing for the amendment of the Public Finance Management Amendment Act so as to strengthen the Act by giving it more teeth and strengthen parliamentary oversight and punitive mechanisms for non-compliance.

These legislative developments are critical in the anti-corruption efforts as they enhance and broaden the work of ZACC. Several countries, as will be shown in the Annex below, have passed the pieces of legislation that Zimbabwe is still struggling to finalise.

LAW AND POLICY RECOMMENDATIONS

Alignment of the Anti-Corruption Act with other laws

The Anti-Corruption Act must be aligned with the Constitution of Zimbabwe, which it predates. Further, the Act must be improved so that it speaks to the provisions of other legislative frameworks critical in the fight against corruption. These other pieces of legislation include the National Prosecuting Authority Act, the Money Laundering and Proceeds of Crime Act, and the Criminal Code. In the same vein, the provisions of the legislative Bills currently under development such as the Whistleblower Protection Bill and the Witness Protection Bill must co-relate to the provisions of the Anti-Corruption Commission Act.

Completion of the Whistleblower and Witness Protection Legislative Bills

The Government must see the two Bills to completion. Current consultations on the Bill are welcome, and such massive efforts must lead to the submission of these two legislative Bills to Parliament for consideration.

Revise and broaden corruption crimes in the Criminal Code

The Criminal Code has only five corruption crimes, and these could be expanded. Critically, all five criminal offences can only stick if there is an agency-principal relationship between persons. This narrows the scope of corruption crimes and creates an uphill task for the prosecution to climb in proving a case beyond a shadow of a doubt. For comprehensiveness, it is proposed to expand and add to the existing corruption crimes, so that a mini-anti-corruption criminal code is established in Chapter IX of the Criminal Code.

Capacitation of Government Departments on Corruption Perception Index (CPI) indicators and sub-indicators

CSOs must shoulder the responsibility of engaging with Government departments and capacitating on the Corruption Perception Index and on focus areas for anti-corruption policy reforms. Capacitation initiatives can enable the development of policy and legislative reforms by Government departments aimed at plugging corruption entry points.

Inter-agency collaboration and cooperative governance

Administrative mechanisms must be established to achieve inter-agency collaboration of anti-corruption institutions. The collaboration may lead to higher conviction rates since it improves investigation, prosecution and adjudication of anti-corruption crimes. Areas such as money

laundering, asset forfeiture and recovery, and asset freezes require a great deal of cooperation between anti-corruption agencies. It is strongly recommended that clear legislative provisions must be inserted in relevant anti-corruption laws to ensure inter-agency initiatives and mechanisms are implemented at all levels by anti-corruption institutions.

Adequate financing of anti-corruption institutions

The State must ensure adequate of anti-corruption institutions to enable them to deliver on their mandate. Such financing must include improving investigative and prosecuting systems by mechanisms such as the digitalisation of case management systems. One of the sources for financing must include proceeds seized or recovered from asset forfeiture, corruption convictions and other proceeds of corruption crimes. International development partners must identify engagement entry points with the Government so that they also complement state financing of anti-corruption processes.

Continuous Benchmarking and Review using Other Jurisdictions

Zimbabwe has several countries to take guidance and lessons from in fighting corruption. In this regard, Annex A provides a list of legislation from other countries, from which stakeholders can pick best practices. This means that these other countries have better policy and legislative frameworks for anti-corruption. However, apart from taking legislative norms, Zimbabwe can also learn about the shape and structure of relevant institutions, the cost of implementation and how to address obvious challenges that arise in implementing legislation against corruption.

CONCLUSIONS

Laws and policies require implementation for policy goals and objectives to be achieved. Without such implementation, the noble objectives of laws and policies will not see the light of day. By adopting the NACS as a complement to existing anti-corruption laws, Zimbabwe has embraced the fight against corruption which permeates all sectors of society. However, the policy and legislative landscape are not good enough to combat corruption, and current efforts at developing whistleblowers and witness protection legislation testify to that. There is no doubt that the law needs to be implemented and complemented by other critical factors such as financing, inter-agency collaboration and international support. Current criminal justice and civil mechanisms that include asset recovery and forfeiture, recovery of proceeds of money laundering and inter-agency collaboration need to be strengthened whilst citizen education on citizen responsibilities in the anti-corruption fight need to be enhanced.



ANNEX A: Comparison with other Jurisdictions for Benchmarking and Review

Country	Anti-Corruption Commission	Whistleblower Protection Legislation	Witness Protection Legislation	Anti-Corruption & Money Laundering Criminal Laws
Kenya	Ethics and Anti-Corruption Commission	Whistleblower Protection Bill, 2023.	Witness Protection Act, 16 of 2006.	<ul style="list-style-type: none"> Anti-Corruption and Economic Crimes Act, Cap 65. Financial Intelligence Act, 2022.
South Africa	National Anti-Corruption Advisory Council	Protected Disclosures Act, 2000	Witness Protection Act 112 of 1998	<ul style="list-style-type: none"> Prevention and Combating of Corrupt Activities Act, 12 of 2004. Prevention of Organised Crime Act, 121 of 1998
Ghana	Commission on Human Rights and Administrative Justice	Whistleblower Act 720 of 2006	Witness Protection Act 975 of 2018.	<ul style="list-style-type: none"> Anti-Money Laundering Act, 1044 of 2020. Economic and Organised Crime Office Act, 2010 (Act 804)
Zambia	Anti-Corruption Commission	Public Interest Disclosure (Protection of Whistleblowers) Act No 4 of 2010.	No legislation	<ul style="list-style-type: none"> Anti-corruption Act, 3 of 2012. Prohibition and Prevention of Money Laundering Act, 44 of 2010.
Botswana	Directorate on Corruption and Economic Crime	Whistleblowing Act 113 of 2016	No legislation	<ul style="list-style-type: none"> Proceeds and Instruments of Crime Act, 2014. Corruption and Economic Crimes Act, 2013.

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ABOUT TRANSPARENCY INTERNATIONAL ZIMBABWE (TI Z)

Transparency International Zimbabwe (TI Z) is a non-profit, non-partisan, systems-oriented local chapter of the international movement against corruption. Its broad mandate is to fight corruption and related vices through networks of integrity in line with the Global Strategy. TI Z believes corruption can only be sufficiently tackled by all citizens including people at grass root level.

Vision

A Zimbabwean society free from all forms of corruption and practices.

Mission

We exist to be a knowledge-driven and evidence-based anti-corruption civil society organization that practices and promotes transparency, accountability, and integrity in all sectors to achieve good governance.

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