



# SUMMARY OF CSO HANDBOOK ON CORRUPTION



Implemented by



This handbook was produced with the financial support of the Federal Republic of Germany and co-funded by the European Union under the Enabling Access to Justice, Civil Society Participation and Transparency Programme

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**Published by**

Deutsche Gesellschaft für  
Internationale Zusammenarbeit (GIZ) GmbH  
Registered offices Bonn and Eschborn, Germany

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## INTRODUCTION

Civil Society Organisations (CSOs) in Zambia have been advocates of good governance. As a result, they have been involved in several initiatives aimed at fighting corruption. This summary information is intended to be a complementary tool to their anti-corruption activities and initiatives. It contains five chapters.

## SOURCES OF INFORMATION ON THE EXISTENCE OF CORRUPTION

The following are some sources CSOs could use to get reliable information on the existence or prevalence of corruption in order to plan their interventions from an informed perspective:

- **Crime Statistics and Court Judgments:** Cases that have gone to court and have been proved provide conclusive evidence of the existence of corruption. Even though, where a case is dismissed, that may not necessarily mean there is no corruption;
- **Public Perceptions and Attitudes:** This is usually through surveys of public perception of corruption, such as the Transparency International (TI) Corruption Perception Index;
- **People's Experience of Corruption:** this can, for example, be through surveys such as for Afrobarometer and Transparency International Zambia (TI-Z) Bribe Payers Report; and
- **Other Administrative and Institutional Data:** this may include reports of quasi state agencies such as the Financial Intelligence Centre (FIC), the Auditor General and reports of international organisations, such as the World Bank on corruption in Zambia.



## LEGAL AND INSTITUTIONAL FRAMEWORK FOR FIGHTING CORRUPTION IN ZAMBIA

### Key Laws

The following are the key laws in the fight against corruption:

- The Anti-Corruption Act of 2012, which establishes the ACC and lists crimes of corruption.
- The Public Interest Disclosure (Protection of Whistleblowers) Act 2010: The Act provides a framework for the protection of whistleblowers or those who disclose information, exposing corruption, crimes, maladministration or other similar wrongs.
- The Plea Negotiations and Agreements Act 2010: This law sets out the mechanism for plea agreements. It only recognizes one type of plea agreement, that is, a charge reduction, i.e. the suspect agrees to plead guilty to a lesser crime than that actually committed. It does not expressly provide for sentencing pleas.
- The Forfeiture of Proceeds of Crime Act 2010: The Act provides for forfeiture to the state property believed to be derived from commission of a crime. Forfeiture is generally done in one of two ways: conviction-based (where a person is convicted of a criminal offence) and civil forfeiture (where authorities simply target the property but the concerned person may not be visited with criminal prosecution).
- The Prohibition and Prevention of Money Laundering Act (as amended in 2010): The Act proscribes money laundering and puts in place mechanisms for its prevention and investigation. This includes mechanisms for the disclosure of information on suspicion of money laundering activities by supervisory authorities and regulated institutions, forfeiture of property of persons convicted of money laundering, as well as international cooperation in the prevention, investigation and prosecution of money laundering.
- The Financial Intelligence Act 2010: The Act establishes the Financial Intelligence Center (FIC), as the only designated agency responsible for the receipt, requesting, analyzing and disseminating the disclosure of suspicious transaction reports.
- The Public Procurement Act 2008 (As Amended by the Public Procurement (Amendment) Act 2011): The Act establishes the

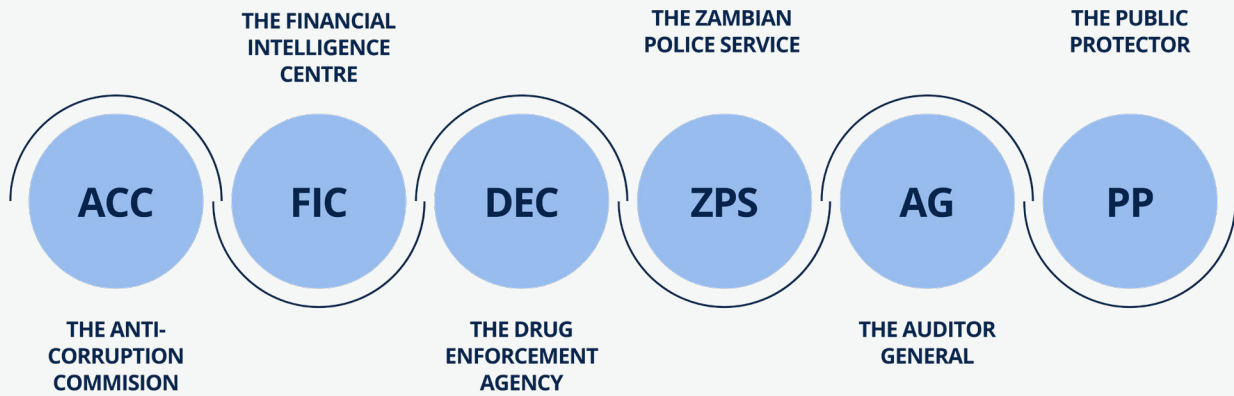




Zambia Public Procurement Authority as the entity responsible for public procurement of goods and services (beyond a certain threshold). The Act is intended to enhance transparency and accountability in the public procurement process by putting in place standard procedures and practices.

Key Institutions

Key public institutions in the fight against corruption and maladministration include the following:



## CRIMES OF CORRUPTION: SOME EXAMPLES

1. Corruption by or with public officers: this occurs where a public officer who, by oneself, or by or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned. A person who promises or gives gratification to a public officer is equally liable.

**Example:** An example of this crime would be where an official asks for an amount of money in order to approve CDF payment to a women's club. Another example would be where a health worker takes a bribe in order to put a patient top of the list for an appointment with a surgeon.

2. Corrupt transactions by or with private officers: this is committed when a person who, by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for and having done or forborne to do, anything in relation to any matter or transaction actual or proposed, with which any private body is or may be concerned.

**Example:** An example of this is where an NGO is looking for a consultant and a prospective consultant pays a bribe to the procurement officer in the NGO in order to win the consultancy.



3. Abuse of authority of office: this can be committed in several ways. What is common is that the official abuses his office or influence inordinately in order to derive a personal benefit.

**Example:** Mr. P, a school headmaster, uses students in the school, to work on his private farm; or General Z, an army officer, sends junior soldiers to work in his construction company.

4. Possession of unexplained property: this is committed when a person has more property than can be explained from a person's lawful sources of income.

**Example:** For example, a person serves as a minister and earns a net annual salary of K650,000 but is found to have bought real estate at the value of \$4 million; or a teacher who earns an annual net salary of K120, 000 but his bank account has credit of K3 million.

5. Corruption of members of public or private bodies with regard to meetings: this may be committed, for example, when one accepts a bribe, in order to vote in a particular manner at a meeting.

**Example:** An example of this crime would be where one pays or accepts a bribe in order to vote for another person to be the PTA chairman of a particular secondary school.

6. Corruption of witnesses: this is committed where one bribes or gives a favour to a witness in order for the witness to give false evidence.

**Example:** Mr. Jones pays Ms. Jane, a police officer, in order for the officer to testify favourably at his trial in court, or to omit incriminating evidence during her testimony.

7. Corruption in relation to sports events: this is committed, for example, through match fixing or other means of trying to illegally pre-determine the outcome of games to one's favour.

**Example:** Mr. Z who pays a referee a bribe in order for the referee to make favourable decisions for the football team Mr. Z wants to win.

8. Conflict of interest: this is where an official does not declare interest in a matter he or she has an interest in and participates in the making of a decision that is to his or her favour.

**Example:** Mr. J is owner of Construction company X. Mr. J is also a Permanent Secretary in the Ministry of Education. The Ministry of Education wants a construction company to construct five rural schools. Mr. J participates in the team of those who choose the construction company and the contract is given to Construction company X owned by Mr. J.

## WHAT CSOS CAN DO IN THE FIGHT AGAINST CORRUPTION

- **Awareness Raising:** CSOs can play a key role in sharing information about corruption, sensitizing the citizens and officials about corruption and help provide platforms for exchange of information about corruption and related policies and laws.
- **Whistleblowing:** Whistle blowing is about helping expose corruption. Because CSOs are not part of government, they are ideally positioned to expose corruption. A whistleblower, therefore, discloses information about corruption or other wrongdoing.
- **Advocacy and Public Interest Litigation:** CSOs use advocacy as a tool that helps them to identify blockages to good governance and in the fight against corruption. This could be at the level of laws, policies, practices, and behaviour, and helps identify points of leverage, power relations and clarifies what is winnable with the resources of those advocating.
- **Monitoring and Lobbying:** Monitoring is one of the most effective tools at the disposal of CSOs in the fight against corruption. It helps diagnose problems, assess actual situations and the actual functioning of systems, and can highlight corrupt practices systematically over time (thus providing a base for advocacy action).
- **Institutional Capacity Strengthening:** Sometimes public institutions have the good will but lack capacity to adequately fight corruption. CSOs may help strengthen public institutions by providing training, research and help establish systems to enable institutions play their role effectively.



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