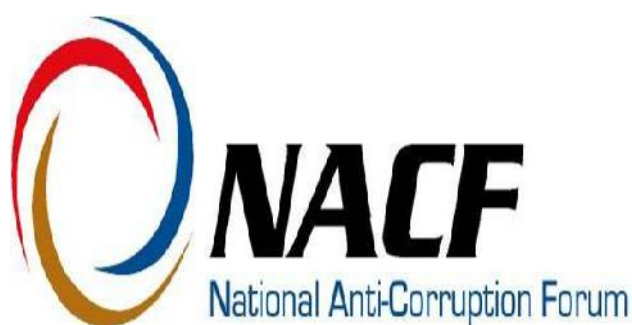


Consolidating the Civil Society Voice in the Fight Against Corruption

Civil Society Indaba

23 – 24 June 2011



CONSOLIDATING THE CIVIL SOCIETY VOICE IN THE FIGHT AGAINST CORRUPTION

Report on the NACF Civil Society Indaba held in Cape Town, 23-24 June 2011

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EXECUTIVE SUMMARY

The National Anti-Corruption Forum (NACF) was launched in June 2001 in response to a resolution made at the first National Anti-Corruption Summit, held in April 1999. The Forum comprises three sectors: Business, Civil Society and Government. Each sector is represented by ten (10) members nominated by their respective constituencies.

The Civil Society Sector of the NACF has been faced with a number of challenges and the Indaba was called to consolidate, organise and develop the civil society voice on corruption and to strengthen the Sector's work both within and outside of the NACF. During the indaba civil society actors

- assessed the functioning of the Sector on the NACF,
- decided on the continued role of the Sector on the NACF
- re-evaluated their priorities, role and function on the NACF, and
- established proposals on how best to organise the Sector in order to effectively present a Civil Society position on the many aspects of combating corruption

Delegates looked at the current challenges and causes with regards to corruption and developed overarching priorities for addressing those. The role of Labour and the broader Civil Society was canvassed. Special attention was given to the access to information in view of current attempts to introduce legislation aimed at limiting access and penalizing publishing information that might include reporting on corrupt activity. Finally participants considered number of structural questions to begin to organise the sector more strategically around the issues.

The Indaba revealed the following:

Concerns, Causes and Priorities

- The civil society voice on corruption needs to be strengthened and the sector needs to be better coordinated in its responses and strategies to address the issue. In pursuing its strategy, civil society must do so on the basis of : The driving principles for any strategy are
 - *A proper mandate;*
 - *Accountability;*
 - *Broad-based representation*
 - *Independence:*
 - *Proper coordination*
 - *Commitment to strengthen each other*

A number of **priority areas** were identified, including

- **Acting on earlier resolutions** of the NACF and APRM forum
- **Building and strengthening institutions** to address corruption. These include Chapter 9 Institutions and the COSATU-driven initiative, Corruption Watch.
- Driving the **establishment of an independent, statutory anti-corruption agency.**
- Ensuring adequate **protection of whistle blowers.**
- Building an **alternative culture** that does NOT allow for corruption as an acceptable practice (through training, education, communication).
- Pursuing active **engagement on the Protection of information Bill.**
- **Addressing Corruption in the business**
- Building and fostering **strategic relationships with the media** – especially community media.

Civil Society Perspectives on the NACF

- There was broad consensus that Labour would remain part of the Civil Society Sector of the NACF.
- The NACF needs to be transformed and strengthened into a **more meaningful platform**.
- A number of key issues need to be considered and taken up by the NACF. They include:
 - **The establishment of an independent statutory body** with broad powers to investigate (and possibly prosecute) corruption related matters.
 - **Focusing on implementation, training and capacity building** in relation to the legislative framework
 - Providing **clear and specific platforms and institutions to report** corruption with a functional tracking mechanism
 - **Ensuring accountability from the highest office** in the country
 - **Simplifying language** to define corruption to ensure it is accessible to everyone
 - **Coordinating sector programmes** guided by a specific programme of action and clear deliverables.
- Civil Society has to mobilize around the issue of Access to information as a priority area.

Organising the Sector

Reorganising the Sector is imperative if the influence of Business and Government are to be effectively counterbalanced. In order to do that, civil society needs to attend to the following as a matter of urgency:

- ***Revised election criteria onto the NACF have to be agreed upon and implemented.***
- ***Civil society needs to form strategic and supportive working relationships with relevant Chapter 9 institutions***
- ***The funding avenues to support the work of civil society on the NACF have to be broadened.***

A Working Group was established to look at developing and coordinating a work plan towards the NACF summit in December 2011



BACKGROUND TO THE INDABA

THE PURPOSE OF THE INDABA

This Civil Society Indaba represents an opportunity

- a) to assess the functioning of the Sector on the NACF,
- b) to consider the continued role of the Sector on the NACF, and
- c) if there is to be a continued role on the NACF, how best to organise the Sector in order to effectively present a Civil Society position on the many aspects of combating corruption.

A full Programme is contained in **Annexure A**.

ORGANISING COMMITTEE

The Indaba was organised by the NACF Civil Society Working Group consisting of ECOSOCC, ODAC and SANGOCO. The Indaba was generously supported by the *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ) GmbH. The Office of the Public Service Commission provided invaluable logistical and other support.

THE FACILITATION TEAM

Ghalib Galant and Regina Lindau from SynergyWORKS facilitated the Indaba and were responsible for the drafting of this report.

COMMENT ON CORRUPTION



FIGURE 1 CORRUPTION

“Radix malorum est cupiditas (the root of all evil is greed/the love of money)”. Corruption poses one of the most serious threats to the nascent democracy in South Africa. In the public sphere, it diverts critically needed public resources from service delivery to communities where they are needed into individual enrichment. By peddling political influence for economic gain corruption threatens to undermine faith in public institutions and in the legal framework holding everything

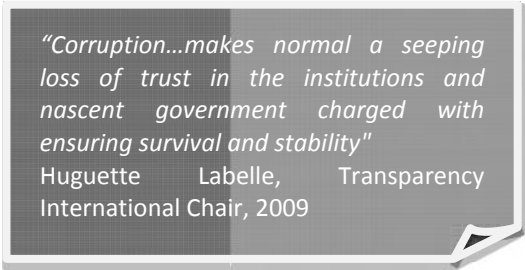
together. This lack of faith is increased when evidence of corruption does not lead to any action. The relative impunity of perpetrators of corruption also leads to apathy (in terms of reporting corruption) or worse still, acceptance of corruption as “the way things are done.”

In 2006, South Africa ranked the second least corrupt country on the African continent on Transparency International’s annual **Corruption Perception Index** (CPI)¹ measuring public sector corruption worldwide. In 2007 there was an improvement that saw the country improve its standing from 51st in the global stakes to 43rd. However since then there has been a steady decline in that rating; in 2010, the country was ranked 54th in the global stakes, 3 places below its position in 2006.

¹ Transparency International’s Annual Corruption Perceptions Index (CPI) measures the perceived levels of public sector corruption in 178 countries globally. It scores countries on a scale from 10 (very clean) to 0 (highly corrupt). The CPI draws on different assessments and business opinion surveys carried out by independent and reputable institutions. It captures information about the administrative and political aspects of corruption. Broadly speaking, the surveys and assessments used to compile the index include questions relating to bribery of public officials, kickbacks in public procurement, embezzlement of public funds, and questions that probe the strength and effectiveness of public sector anti-corruption efforts.

In South Africa, many incidents of corrupt activity have been reported and publicised including: the Arms Deal, Travelgate, the PetroSA saga, the activities of cartels such as in the bread price-fixing case, the connections of criminal syndicates to the security apparatus of the country. These activities have implicated many high-profile business and political leaders, including a mining boss, two police commissioners and even the financial and parliamentary advisers to the President. The term ‘*tenderpreneur*’ has entered into public usage because of the perceived widespread practice of rigging tender procedures to benefit well-connected individuals.

There has been much activity around the issue, and much remains to be done. Civil Society has to find ways of harnessing the energy around some of the current issues, organise itself and to focus its efforts at getting a collective voice and position heard and accepted.



THE NACF

The National Anti-Corruption Forum (NACF) was launched on **15 June 2001** in response to a resolution made at the first National Anti-Corruption Summit, held in April 1999.

The Forum comprises three sectors: Business, Civil Society and Government. Each sector is represented by ten (10) members nominated by their respective constituencies.

Business	Civil Society	Government
<ul style="list-style-type: none"> • 10 BUSA members • 6 members Business Against Crime • 4 members Industry Alignment Forum • Current Industry Alignment Forum Members • Consumer Goods Council of SA (CGCSA); • National Association of Automobile Manufacturers of SA (NAAMSA); • South African Banking Risk Information Centre (SABRIC); • South African Fraud Prevention Service (SAFPS); • South African Insurance Association (SAIA); • Life Offices' Association of SA (LOA); • Chamber of Mines (COM); • Security Industry Alliance (SIA); • JSE Securities Exchange (JSE); • South African Post Office; and • Retail Motor Industry (RMI). 	<ul style="list-style-type: none"> • 10 Civil Society Members • The Convenor of Civil Society Network Against Corruption (CSNAC) • The Secretary-General of the Congress of SA Trade Unions(COSATU) • The Convenor of the Economic and Social Council (ECCOSOC) • The Secretary-General of the Federation of Unions of SA (FEDUSA) • The CEO of the Moral Regeneration Movement (MRM) • The Secretary-General of the National Council of Trade Unions (NACTU) • The Chairperson of the South African National Editors' Forum(SANEF) • The Chairperson of the National Religious Leaders Forum (NRLF) • The CEO of South African National NGO Coalition (SANGOCO) • The CEO of Transparency SA (T-SA) 	<ul style="list-style-type: none"> • 9 Ministries • Arts and Culture • Finance • Home Affairs • Intelligence Services • Justice and Constitutional Development • Public Enterprises • Public Service and Administration • Provincial and Local Government • Safety and Security • Public Service Commission acts as Secretariat of NACF

The Forum is committed to:

- a) contribute towards the establishment of a national consensus through the co-ordination of sectoral strategies against corruption;
- b) advise government on national initiatives on the implementation of strategies to combat corruption;
- c) share information and best practice on sectoral anti-corruption work;
- d) advise sectors on the improvement of sectoral anti-corruption strategies.

The Forum has hosted a number of summits and conferences on the issue of corruption over the past 10 years. It has also faced a number of challenges, including:

- the difficulty in reaching consensus or a common position on corruption and how to deal with it across the three sectors;
- insufficient resources to implement even the agreed upon programme of action; and
- variable attendance at Forum meetings by members has led to inconsistent support for the work of the Forum. Government representation has dwindled to being represented by the Ministry of Public Service and Administration; Civil Society representation too has dwindled in recent times.

The Civil Society Sector on the NACF has faced specific challenges:

- The South African chapter of Transparency International has closed and the National Religious Leaders' Forum has also become moribund with reports of its imminent revival abounding;
- SANEF, representing the media, have not been to any meetings in a long time;
- Although there are 3 seats for the labour federations, these members also have been inactive for some time; COSATU had not been present at any Forum meetings for some time and NACTU was not even present at the present Indaba.
- A lack of resources has meant that the National Anti-Corruption Programme (NAP) has not been able to be rolled out more widely through the civil society network; and
- The absence of a consensus in civil society on the issue has led to the absence of a strong enough civil society voice on the NACF.



FIGURE 2 DELEGATES HARD AT WORK

THE INDABA

IN MEMORIAM

The Indaba started with the news of the passing of long-time activist, struggle stalwart and co-author of the South African Constitution, **Prof Kader Asmal**. In recent times he had been outspoken on the protection of civil liberties, supported the Right to Know campaign and had been critical of corruption at all levels of government. Delegates held a moment of silence as a sign of respect and remembered his contribution to the subject at hand.

KEYNOTE SPEECH 1: COSATU

Theodora Steele, Organising Secretary of COSATU, delivered this keynote address. The full text of the address is contained in Annexure B. Highlights from the address are:

- Fighting corruption is not only a moral imperative; it is also a major issue of social justice. Resources intended for the public good are being diverted into the pockets of individuals.
- Much needed basic services are undermined; opportunities that should accrue to the deserving are monopolised by a few.
- Corruption and the peddling of political influence constitute a threat to our collective democratic ideals. It is the antithesis of open democracy.
- It is clear that it is insufficient for government officials to merely declare their interests (or those of their family). There is an inevitable conflict of interest when being involved in business and in government at the same time.
- A more insidious form of this conflict is the practice of “throwing the javelin”, i.e. whilst in public office seeking out business opportunities for when one’s term comes to an end, utilising the special access that government office brings. COSATU proposes that there be a 5-year cooling off period – up from the current 1-year period in the DPSA guidelines.
- COSATU supports the following
 - *blacklisting entities and their directors*
 - *that government officials and employees choose to pursue EITHER their business interests OR their government responsibilities.*
 - *disclosure by companies seeking to do business with government of the extent of shareholding by government employees (and their spouses)*

In August 2010, the COSATU Central Executive Committee took the following decision on the issue of corruption:

- To intensify its anti-corruption campaign
- To build a powerful anti-corruption institution of civil society with the capacity to investigate and process those investigations with the relevant authorities

Corruption Watch (CW) is a COSATU led initiative, although independent of the Federation, charged with leading and implementing civil society’s campaign against corruption. It will be officially launched in December 2011 and has mustered the necessary capacity amongst lawyers (including retired judges), accountants and auditors to conduct proper preliminary investigations.

*"Corruption traps millions in poverty,"
Despite a decade of progress in
establishing anti-corruption laws and
regulations, today's results indicate
that much remains to be done before
we see meaningful improvements in the
lives of the world's poorest citizens."
Huguette Labelle, Transparency
International Chair, 2006*

Corruption Watch will have the following functions:

- It will act as a 'safe haven' at which whistleblowers, many of whom will be members of COSATU affiliates, will file reports of corrupt activities.
- CW will investigate alleged corrupt activities and, will, after conducting initial, but in-depth investigations, hand over dossiers that document prima facie evidence of corruption to the law enforcement agencies for further investigation and prosecution.
- CW will, where appropriate, initiate civil litigation against individuals and institutions engaged in corrupt activities.
- CW will develop advocacy campaigns and training programmes designed to increase awareness of corruption and to promote good governance practices that are designed to counter corruption.
- CW will carry out research into corruption and establish relationships with national and international bodies similarly engaged in fighting corruption



COSATU's anti-corruption efforts are NOT a way of targeting political opponents. The politics of patronage have destroyed the self-sacrificing and service ethic that characterised the movement for decades. The fight against corruption has to target culprits regardless of political affiliation or ideology.

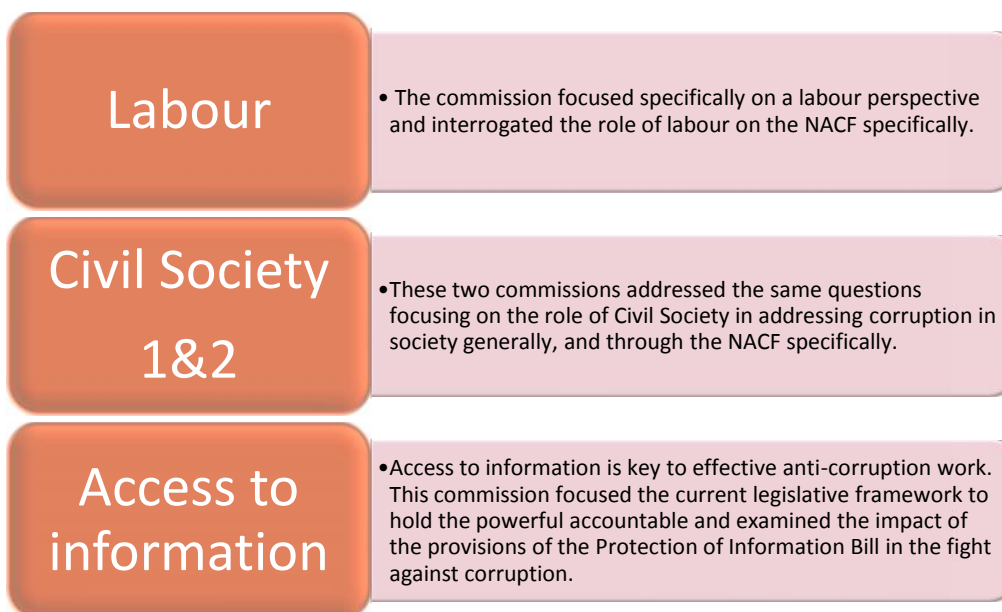
The ensuing rich discussion elicited some further issues for consideration:

- What can be done about government officials who are suspended on full salary when found to have undeclared business interests?
- Where money is recovered as a result of anti-corruption action, what happens to those funds? How are those funds used to address the interests of the poorest of the poor?
- Is disclosure by officials and politicians enough? We need stricter regulations that do not allow those in government to pursue any business interests
- How do we deal with corruption that follows the current regulations, but where the tender has been crafted so as to fit one supplier or where the adjudicating committee has been rigged?
- The Lease of SAPS Head Office highlighted how senior officials often face significant political pressure in doing their work, and thereby are corrupted. How best can this phenomenon be addressed?
- Much of the activity has been focused on metropolitan centres. How best can efforts also be targeted at rural communities – especially the scourge of corruption at local government level?
- Are there ways of beefing up protection for whistleblowers?
- How do we monitor that where corruption has been identified and highlighted, those cases are properly followed up and prosecuted?
- Civil Society also needs to deal with corruption in-house.

Many of these issues were canvassed more fully over the course of the Indaba.

THE COMMISSIONS

Two rounds of commissions interrogated a number of crucial questions. Participants were asked to volunteer for one of the four commissions, namely:



In the first round of discussions, all commissions focused on the current state of affairs with regards to corruption and the key priorities that need attention.

In the second round each commission considered a number of questions specific to their area of focus.

After a plenary report-back from each commission a round of World-Café conversations allowed participants to make input into the work of each of the other three commissions. Following these discussions the original commissions then consolidated their reports.

The following sections give an overview over the outcomes of the discussions.

ROUND ONE: CONCERNS, CAUSES AND PRIORITIES

WHAT ARE YOUR MAIN CONCERNS WITH REGARD TO CORRUPTION?

Across the commissions delegates agreed that:

1. in South Africa corruption is a serious and inter-generational phenomenon affecting the various levels of society;
2. corruption diverts money away from service delivery and development into the pockets of individuals;
3. it happens at all levels of government, and also penetrates the business and even the civil society sector; and
4. increasingly violent protests in communities are often fuelled or even driven by frustration over corrupt practices at local level.

In the current environment there is very little trust in governance structures to effectively address the issue. In many cases institutions are politicised and do not have sufficient independence. As a result, investigations have often been stifled. Whistle blowers have been silenced either through transfer out of positions, or through threats against the individuals (and their family) and in some extreme cases, through murder. Where corruption in government is exposed and investigated, the responses are often weak and may even lead to

“infecting healthy systems” as officials engaged in corrupt practices are merely moved to new positions or other areas.

Some of the main points of concern are:

- The legislative framework is not adequately implemented and monitored
- Whistleblowers are not adequately protected and have even been threatened and murdered
- Business interests of public servants (conflicts of interest) impact on the integrity of the public service
- Corruption is seen as an acceptable practice for many people
- The struggle against corruption is made all the more difficult because it threatens the interests of politically connected individuals and groups
- The experience is that access to information is increasingly being stifled with the proposals contained in the Protection of Information Bill signalling an intention to make it even more difficult to source information to hold government accountable. Education around this issue is still not adequate.
- Corruption in the business sector - especially practices such as fronting, cartels, tax evasion, double-pricing and collusion on prices - is becoming more widespread. Access to information from business has not received enough attention.
- Abuse of power “by the book” (i.e. following the regulations and procedures, while circumventing them) is difficult to address
- The prevalence and incidence of corruption has undermined confidence and respect for those elected into power; many of those in power, once in power, do not honour and respect the responsibilities of good stewardship that go with that position.

Generally there was concern that the voice on corruption is not strong enough and that civil society is not well enough coordinated in its responses and strategies to address the issue. A common and comprehensive understanding of corruption needs to be built amongst role players to enable a more coordinated approach. Issues of gender, unequal power relationships, demanding sexual favours are all examples that form part of corrupt practices but are seldom discussed in this context.

There is also an urgent need to build and strengthen institutions to address corruption. One of the initiatives is the new organisation of “Corruption Watch” initiated by, but independent of, COSATU. Another important aspect is the provision of active support to and cooperation with Chapter 9 Institutions such as the Public Protector, the Auditor-General and the Human Rights Commission.



“All along I thought our level of corruption fell well within community standards.”

WHAT ARE SOME OF THE CAUSES OF CORRUPTION?

While there was no consensus on the definition of corruption, delegates identified greed and a shift in societal values towards a more materialistic values system as some of the main causes of corruption. Corruption (in government) was an abuse of public trust for personal or private gain. However it was not always a case of greed but in some cases corrupt behaviour could also arise out of desperation.

Mistrust in state institutions, the lack of accountability and decrease in social vigilance and activism were identified as enabling factors.

Overall the causes and enabling factors may need some further interrogation to help shape adequate

responses.

WHAT ARE THE KEY PRIORITIES IN RELATION TO CORRUPTION

The various commissions highlighted a number of priorities in addressing corruption. These are:

- The need to act on earlier resolutions of the NACF and APRM – these include the regulation of private funding to political parties (contained in the SADC protocol on corruption to which South Africa is a signatory)
- The establishment of an independent, statutory anti-corruption agency
- Need to create/strengthen ethical culture (through training, education, communication)
- Ensuring that people at local level have access to information including on budgets, or a list of corrupt officials. This means that information at local government level/service delivery level must NOT be classified



- Need for active engagement on the Protection of Information Bill. The Sector needs to identify its position on the Bill for which it will advocate at NACF level
- Need to enhance protection of whistleblowers both in terms of legislation and enforcement
- Expose corruption wherever it occurs

As groups discussed the priorities in relation to corruption one of the key issues that emerged was the need for a comprehensive, coordinated and effective

response from civil society. Civil society needed to organise itself based on a number of principles:

- **Mandate:** The anti-corruption work by civil society needs to be driven by a mandate
- **Accountability:** Need for regular report back and consultation
- **Representation:** Broad-based representation is important for civil societies approach
- **Independence:** Independence of the civil society voice needs to be ensured
- **Coordination:** Coordination and preparation amongst civil society is essential to establish common understanding and clear messages
- **Strengthening each other:** Need to create spaces to enhance and strengthen each other's work and to share resources

These principles may need further investigation but give broad guidance on the issues that require attention in organising civil society.

In enhancing the anti-corruption work of civil society a number of further questions were raised:

- In building a new movement to end corruption, how can we build solidarity throughout civil society? Are circles of support and award systems an option?
- How can we use the media to advance our issues? What are the strategies to work with the "friendlies" (i.e. those media structures which support the broader civil society position)?
- What are the unethical practices in business that need to be addressed?
- Corruption work has largely been perpetrator-focused. What victim-focused work needs to be done?

- What is the inter-ministerial committee doing?

ROUND TWO - PERSPECTIVES

In round two, each commission discussed a number of questions specific to their field. This section provides an overview of the outputs from the commissions. Key points of commonality are listed at the end of this section to highlight cross cutting issues and questions to guide the way forward.

COMMISSION 1 – LABOUR

HOW DOES LABOUR SEE ITS ROLE IN FIGHTING CORRUPTION?

The deliberations reveal a clear need for a more active and strategic involvement of labour in forums and spaces dealing with corruption. This includes utilizing NEDLAC more strategically and the provisions of the Labour Relations Act (section 77) to take industrial/protest action against corruption. (Section 77 of the Labour Relations Act, gives workers the right to take part in protest action to promote or defend their socio-economic interests)

Within the labour movement, trade unions need to prioritise corruption issues as critical for both political leadership and grassroots worker education and action.

WITH REGARD TO LABOUR’S ROLE IN THE NACF, WHAT HAS GONE WELL, WHAT COULD HAVE GONE BETTER, AND WHAT, IF ANY, DOES LABOUR SEE AS ITS ROLE GOING FORWARD IN THE NACF?

The commission stated clearly that Labour did not seek to separate itself from civil society. Instead Labour sought a strategic partnership which would strengthen the civil society voice at the NACF and beyond. The NACF itself should be used as a forum that could provide power to civil society’s voice on corruption and could help facilitate a cross-sectoral response in a meaningful manner. Going forward labour would engage strategically with the forum and would take its programmes to the NACF.

For shaping its approach, lessons could be drawn from experience on the South African Netherlands Chamber of Commerce, the South African AIDS Council (SANAC) and the National Economic Development & Labour Council (NEDLAC). Overall the commission called for a restructuring of the forum with civil society (possibly COSATU) chairing it. As the most immediate priority Labour must make input into the NACF report to Parliament to highlight areas to be strengthened and challenges to be addressed.

WHAT DOES LABOUR PROPOSE IN TERMS OF WAY FORWARD IN RELATION TO THE NACF?

The commission suggested a strengthening of the NACF to transform the forum into a more meaningful platform. This would include reconstituting the forum whilst its formal powers would remain unchanged. The body remains focused on monitoring, assessing, coordinating and raising awareness. It can also serve as a networking structure.

Some of the issues to be considered and taken up by the NACF include

- The establishment of an independent statutory body with the powers to investigate (and possibly prosecute?) corruption related matters.
- Focusing on implementation, training and capacity building in relation to the legislative framework

The civil society sector can leverage off the NACF and should focus on

- Using the NACF (PSC secretariat) as a vehicle to report to Parliament
- Where consensus is not reached on the Forum, Civil Society should still file an independent report to the Legislature

- Mobilising with the use of publication (Electronic, radio, TV, Newspapers/Bulletin, Pamphlets)
- Breaking the language barrier (translate to the used language in the area)

COMMISSION 2 – CIVIL SOCIETY 1

HOW DOES CIVIL SOCIETY SEE ITS ROLE IN FIGHTING CORRUPTION?

Commission Two highlighted the importance of civil society in blowing the whistle and in supporting whistleblowers. Civil society needs to increase its visibility and to strengthen structures at a local level to enable awareness-raising and education. Civil society actors also need to seek a broad-based mandate and report back to their constituencies in a coordinated and regular manner on the progress of the national anti-corruption measures and activities. Civil society also had to ensure that it maintained its own integrity and remained true to the principles it espoused and ensured that corruption did not besmirch its own actions.

WITH REGARD TO CIVIL SOCIETY'S ROLE IN THE NACF, WHAT HAS GONE WELL, WHAT COULD HAVE GONE BETTER, AND WHAT, IF ANY, DOES CIVIL SOCIETY SEE AS ITS ROLE GOING FORWARD IN THE NACF?

The group felt that so far the NACF does not seem to have made many meaningful achievements. Some key questions to consider in changing this situation are:

- How can we deepen the structure?
- How do we improve report backs?
- How do we ensure constituencies are on board?
- To whom are we and the NACF accountable?



This commission also supported the view that Labour should not be separated out from civil society on the NACF. For the success of the Forum it will be crucial that individuals serving on it report back to broader civil society on a regular basis and in a structured manner. One of the questions to be considered within the civil society sector is: *How do we accommodate the range of politics and opinions in civil society on*

the NACF structure?

WHAT DOES CIVIL SOCIETY PROPOSE IN TERMS OF WAY FORWARD IN RELATION TO THE NACF?

The commission established a need to revisit the establishment and operations of the NACF. For the future, the Forum needed to establish a provincial presence to ensure a wider reach. It also needs to develop clear operational goals with monitoring and evaluation tools for accountability. The civil society sector would be represented through its various umbrella bodies instead of individual organisations.

Some of the issues to be considered and taken up by the NACF include

- Providing clear and specific platforms and institutions to report corruption with a functional tracking mechanism
- Ensuring accountability from the highest office in the country
- Simplifying language to define corruption to ensure it is accessible to everyone

COMMISSION 3 – CIVIL SOCIETY 2

HOW DOES CIVIL SOCIETY SEE ITS ROLE IN FIGHTING CORRUPTION?

Commission Three highlighted the responsibility of civil society to educate. The group emphasised the importance of making linkages between the macro- and micro-levels of corruption. In this context civil society also needed to take a critical look at itself and at the corruption embedded in the sector. In this regard relationships with some donors needed to be re-assessed to ensure the sovereignty of local organisations was maintained.

WITH REGARD TO CIVIL SOCIETIES ROLE IN THE NACF, WHAT HAS GONE WELL, WHAT COULD HAVE GONE BETTER, AND WHAT, IF ANY, DOES CIVIL SOCIETY SEE AS ITS ROLE GOING FORWARD IN THE NACF?



The NACF is a platform that seeks to represent international best practice. Currently it seems the achievements through the Forum have been minimal. In this regard civil society needs to clarify its contribution and role on the NACF to help transform the platform. Some of the strategic questions to be answered are:

- What is civil society's collective strategy? (There is a need for cooperation and for identifying common issues amongst civil society actors. This will help actively shape our engagement both within and outside of the NACF)
- What is the niche on, and what value does Civil Society add to, the Forum?

- How do we ensure independence of the civil society voice? (through appropriate and enabling structures & functions as well as adequate resources)
- What is our relationship with Chapter 9 institutions and how do we support them?
- What is our relationship with Parliament?
- Can we articulate what we are FOR – rather than only saying what we are against?
- How do we balance the power in the space?

WHAT DOES CIVIL SOCIETY PROPOSE IN TERMS OF A WAY FORWARD IN RELATION TO THE NACF?

On the NACF the civil society sector needs to strengthen its voice and its sphere of influence. It also needs to actively shape NACF strategy as well as sector specific strategies that lead away from the current corporatist model. The structure needs to be decentralised and provincial presence must be established. An independent NACF secretariat must be established to support operations and ensure structured report-backs.

The group identified some additional questions for consideration:

- Who from civil society will be the chair the forum once this function rotates?
- What other changes must be made to the NACF?

- What is the role of the media in relation to the NACF?
- How do we balance the power in the space?

COMMISSION 4 – ACCESS TO INFORMATION

How will the current provisions of the Protection of Information Bill impact on access to information and the fight against corruption?

The Bill in its current form could cover up corruption in government, civil society and business. At the same time it protects important information. Whilst the group recognised that some classification of information is necessary, delegates pointed out that the Bill in its current form can lead to abuse. The focus of amendments should be on differentiating what information should be secret and what open.

WHAT IS THE CURRENT STATUS OF THE FRAMEWORK TO HOLD THE POWERFUL ACCOUNTABLE? ARE GOVERNMENT, CIVIL SOCIETY AND BUSINESS HELD ACCOUNTABLE?



Several laws govern accountability and access to information, namely the Promotion of Access to Information Act (PAIA), the Promotion of Administrative Justice Act (PAJA,) The Protected Disclosures Act (PDA) and the Prevention & Combating of Corrupt Activities Act (PACOCA). These laws need to be reviewed and strengthened based on constitutional rights. The Office of the Public Protector and the South African Human Rights Commission are important partners in this regard.

One of the main concerns with regard to access to information legislation is that currently there are no options other than a court process for non-compliance. Some other option that could give speedier relief needs to be found. Non-compliance by government is a problem as it is often NOT in the interests of the relevant institution (or official) to comply.

HOW CAN THE CURRENT FRAMEWORK BE USED MORE EFFECTIVELY?

Better public education is critical to the effective use of the current framework. Many people don't know about laws such as PAIA and consequently do not have the opportunity to pursue a number of avenues to access the information they require. In addition the language of the framework needs to be simplified to become accessible to the broader public.

Under the current framework government has not operated with transparency. Civil society therefore needs to focus on putting structures in place to hold government accountable and to ensure transparency. This also includes active involvement in establishing a monitoring structure for the Protection of Information Bill.

THE MEDIA – AN EMERGING DISCUSSION

The discussion in commission four highlighted a number of issues and concerns in relation to the role of the media in the efforts to strengthen good governance and accountability. The media and its lack of involvement on the Forum (through SANEF) came in for a lot of criticism.



FIGURE 3 BUZZING

Some of the criticism against the media was focused on the foreign owned media and the independent newspapers that often took money out of the country and had been difficult to challenge in that regard. In addition the media was characterised as frequently “trampling on people’s rights” and not living up to the ethics that they promoted to the outside. In one case a major newspaper had refused to allow for publication of a particular report which subsequently was leaked to the public.

These discussions highlighted the need for engagement with the media and a more in-depth consideration of the role of the media

(SANEF) on the NACF. In spite of some serious challenges in relation to the media the group acknowledged they have an important role in advancing good governance and accountability. In many cases the media – especially community media - is an important vehicle to advance issues important to civil society. Building strong and collaborative relationships with the relevant organisations and even individuals (e.g. Derek Luyt, Head of Media and Advocacy at the Public Service Accountability Monitor (PSAM)) could broaden the reach of the work of the civil society sector considerably.

KEYNOTE SPEECH II: CASAC

The Chairperson of the Council for the Advancement of the South African Constitution (CASAC), Siphosiso Pityana, addressed the Indaba. Sketching the background to the Council, he said that CASAC had been started in order to promote democratic politics and the values enshrined in the Constitution. It took a stance on issues of liberating society, advancing socio-economic rights, the marginalisation of communities and the independence of judiciary. The Council strongly believes in accountability and that open democracy and good governance must be protected and promoted. It further believed that engagement with the issues of the day must be done on an informed basis; the task was not merely to criticise but rather also to propose alternatives, conduct research identify options which will allow for making proposals that take things forward.



CASAC’s first project focused on corruption because of the impact of corruption on democracy: it diverts resources from what they are intended for; corruption undermines the Bill of Rights and the rule of law; the pervasive corruption is contrary to what the struggle against apartheid symbolises. Therefore working against corruption is progressive and not counter-revolutionary.

THE CASAC REPORT

The recently released entitled “*Corruption- towards a comprehensive societal response*” noted that corruption had become an institutionalised phenomenon since colonial and apartheid times. Today it was a

systemic and endemic. It was imperative that the current democratic government fight corruption which was also a legacy of the past. In spite of the constitutional mandate and commitment to international instruments, in spite of a strong legislative framework and independent institutions charged with combating corruption, 17 years after democracy, the report found that corruption is running rampant in government and in the business sector.

RECOMMENDATIONS OF THE REPORT:

- South Africa lacks a **dedicated, independent statutory agency** to deal with corruption. Such a body needed to be independent of the Executive and of other influential people and sectors. The institutions currently in South Africa either did not have a dedicated mandate to deal with corruption (e.g. the very broad mandate of the OPP) or where they did focus on corruption they were not independent (e.g. the Hawks). Without such a dedicated independent statutory body there was a serious vacuum.
- The issue of **party political funding** needs to be addressed and transparency in this regard is essential.
- The (business) **interests of public office bearers**, not just of political leaders, needed better monitoring and reporting.
- Another key priority has to be **improving the whistle blowing legislation**.

The full report is available for download from the CASAC website:

<http://www.casac.org.za/2011/04/casac-proposes-a-new-independent-agency-to-investigate-acts-of-corruption/>

TOWARDS AN INDEPENDENT AGENCY

The recent Constitutional Court ruling on the legitimacy of the establishment of the Hawks and the instruction to the Executive to set up a statutory independent oversight body meant that there was an 18-month window of opportunity to engage Government on the matter. Anticipating that there will be serious contestation on the issue, it was important for Civil Society to push to achieve as much independence for such a body as possible. Beyond being enshrined in law it must also be perceived as independent in its conduct.

It is essential that there must be no interference from the start of investigation right up to prosecutions. Both the model of the Scorpions and that of the Hawks have shown limitation; a new model must be found. In the case of the Hawks and Scorpions the model was influenced by the state. An independent agency on issues of corruption must not be involved in prosecution. At the same time prosecution services must not have the opportunity to NOT go forward with prosecution. In this case we cannot have discretion for prosecutor whether they will prosecute. This relationship must be crafted very carefully.

RED CARD CORRUPTION CAMPAIGN:

CASAC had initiated a "**Red Card Corruption**" Campaign following the release of the report. A second report will follow in July assessing the impact on socioeconomic rights and democratic order.

For the campaign it is important to mobilise political will to ensure leadership in all areas of society are on board. Generally speaking there is political will around the issue with most parties having clear resolutions in this regard. Even the ANC and Polokwane resolutions have made very clear statements about corruption. Nonetheless they have either not found expression in policy and law or not being implemented.

Key focus areas of the Campaign are:

- *To establish a dedicated independent anti corruption agency*
- *To address the issue of party political funding*
- *To reform whistleblowing legislation*
- *To ensure more effective mechanism of monitoring conflict of interest of public office bearers.*

- *To establish a vigorous anti-bribery programme*

There had already been extensive consultations with the 3 labour federations (COSATU, FEDUSA and NACTU) and a range of other stakeholders. CASAC has also started launching town-hall-style public engagements about proposals. It is considering an anti-corruption pledge rally in cooperation with civil society partners.

CASAC believes that the NACF is a strategic platform that must be transformed to be a strong voice in the area of anti-corruption work. CASAC believes that government is a very important partner in the fight against corruption; this is a legitimately elected government and should therefore be supported in its fight against corruption. However, the NACF must have teeth. Through proper organisation of civil society the NACF could get those teeth.

In response to the address a number of issues were raised and comments made. Most of these were taken up in subsequent discussions:

- Given that corruption pre-dated democracy, the issue of land restitution must be addressed within the context of corruption;
- Pre-1994 incidents of corruption must also be dealt with
- A Civil Society publication on grand corruption under apartheid is available (see annexure). We needed to guard against using corruption under apartheid or colonialism as an excuse for corruption happening today. The liberation movement held up a different standard to the then regime; it should continue to do so now.
- A civil society working group must be established to explore the establishment on a new institution and to feedback to the broader sector on such an institution.
- Need to consolidate all our research findings to come up with legitimate cases that we can presented to young people
- Need to look at resource mobilisation
- What does it mean for an independent statutory body to be driven by civil society?
- How should the appointment of people serving in this body work to ensure independence?
- It was said that the body must have investigative powers but not prosecution. This implies a referral. So far we have had serious issues with prosecution. How best do we ensure that this works effectively?
- We needed to guard against Western notions of corruptions and needed to understand the phenomenon within a context of Africa and African democracy.

Mr Pityana responded to some of the comments:

- In organising itself, civil society needed to take into account international best practice and comparative analysis. There was nothing special about African democracy that could justify corrupt behaviour. In many African countries corruption has in fact undermined democracy. The Constitution recognises the legacy of colonialism and apartheid and mandates the new democracy to deal with those. It is a revolutionary achievement. Under the Constitution, the government must redress of disadvantages including economic disadvantages, exclusion from the economy, taking over of land. We cannot deal with this emotively and we must measure our own capability in this regard.
- We need an independent statutory agency and the law must give it powers to do its work. It must have an environment to investigate and must be properly resourced. Government has a responsibility to fight corruption. A review done by Kader Asmal on the role, responsibilities and independence of Chapter 9 institutions can give guidance for the establishment of this agency.
- It is trite that Apartheid was corrupt. However, that cannot be a justification for the current state of corruption. In putting in place a democratic dispensation we hold ourselves up to a higher standard.

ORGANISING THE SECTOR: THE DISCUSSION MARKETPLACE

Delegates now turned to addressing the real challenges of organising the Sector around the issue of corruption. After participants had the opportunity to make individual inputs into each of the themes, smaller working groups consolidated these into a set of main proposals for each theme. The sections below provide a summary of the inputs followed by the main proposals for each theme.

The Role of the NACF's Civil Society Sector:		
What is the role of civil society at the NACF?	What is its role in relation to the activities and initiatives of individual member organizations in relation to dealing with corruption?	How can members use the NACF to leverage their own anti-corruption work?

OUTCOMES AND MAIN PROPOSALS

From the various inputs a rich picture with many ideas for civil society's potential role on the NACF emerged:



FIGURE 4 MAKING INPUT

- Overall civil society could actively shape the agenda of the NACF & help define a progressive, comprehensive and holistic anti-corruption strategy. On an ongoing basis civil society should continue to influence, advise and advocate on a range of issues. One such issue was lobbying for an independent statutory agency to be established with a clear mandate and focus on corruption. Civil society should also offer its research capacity and play a strong role in monitoring the work of the NACF and in holding all stakeholders accountable. It

was suggested that this would be formalized through monthly reports and quarterly

evaluations.

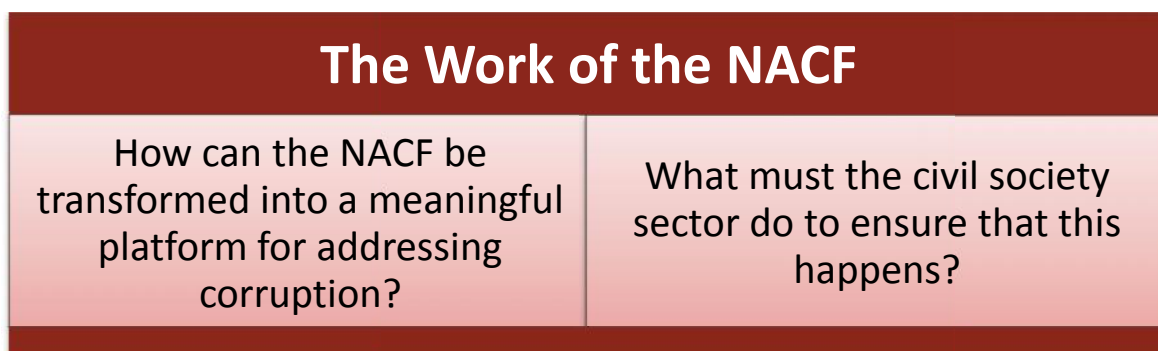
- As a social partner to ensure good governance and fight corruption, civil society should seek to mobilize all sectors to remain focused in their work to end corruption. With a clear civil society perspective, the sector wishes to facilitate the transformation of the NACF to enable it to respond timeously to issues and to be recognised as an important participant in the anti-corruption debate.
- The NACF also presents a platform for civil society to coordinate between individual organisations and to ensure mutually enriching work amongst organisations. The forum is a networking opportunity through which organisations can hold each other accountable ensuring a consolidated voice on the issue of corruption.
- Outside of NACF programmes and activities each sector will still pursue its own work separately with the possibility of individual organisations adopting specific programmes of the NACF.

MAIN PROPOSALS

The Civil society sector needs to focus its attention on

- Education on impact of corruption
- Advocacy around dealing with corruption

Within the NACF civil society seeks to determine the agenda much more actively and ensure that the work of the NACF is also localized through provincial structures. The sector aims to transform the NACF into a structure that facilitates the coordination of the anti-corruption work across sectors and organisations.



OUTCOMES AND MAIN PROPOSALS

From the inputs of the wider group a number of ideas surfaced on how to transform the NACF into a meaningful and common channel in working towards a corruption-free society:



FIGURE 5 AMPLIFYING THE CIVIL SOCIETY VOICE

- The NACF needed to be enabled to take up its function in coordinating sector programmes guided by a specific programme of action and clear deliverables.

- To give effect to this vision the NACF needs a maximum level of independence supported by a dedicated and well resourced secretariat with research capacity.

- The national structure would be supported by provincial bodies which are mandated and which help to improve visibility and feed the voice of the

broader public into the strategies of the forum.

- Commitment from all sectors in this process is important and especially the various ministers needed to commit themselves to NACF meetings as a priority.
- As discussions over the establishment of an independent statutory body to address corruption unfold the NACF will need to reconsider its functions within the new context.

Civil society can support and drive this transformation process in a number of ways. Civil society needs to:

- Organise itself first to ensure good governance and credibility (“Stop the blame game and take responsibility”)

- Be accountable to its constituencies through a clear mechanism
- Function as the voice of the communities and constituencies on the NACF
- Actively determine the programme of action of the NACF and give reports on implementation
- Ensure regular consultation and continuous communication with stakeholders for further development of strategic plans
- Ensure engagement and education at local, district and provincial levels
- Publicise NACF work, improve visibility, publish reports
- Provide support to NACF

Some of the core issues to be advanced through the NACF are:

- Strengthen whistle blowing laws
- Review PAIA, PDA, PAJA, PACOCA
- Actively participate in campaigns and reviews of the Protection of Information Bill: not to classify local government/service delivery information
- Address price-fixing
- Mobilise and organise civil society and citizens against corruption
- Develop and advance campaigns around corruption issues
- Strengthen civil society work in the area of governance and corruption
- Strengthen training and education in anti-corruption work



FIGURE 6 NOTICE BOARD

MAIN PROPOSALS

- The Memorandum of Agreement of the NACF has to be changed to shift the body from being merely advisory and a place of exchange of information, to one that can make pronouncements on corruption and has a clear programme of action
- The Forum should also function to coordinate anti-corruption work across government, business and civil society.

To achieve this, a number of initiatives should be taken:

- Change the representation of the civil society sector on the NACF and ensure accountability of individuals serving on the forum to the broader sector
- Establish a working group to help develop a coordinated civil society sector to be represented at NACF (accountable to broader civil society)
- Strategically select and prepare the next chairperson of NACF (from civil society)
- Define mechanisms to hold government and business accountable on the forum
- Manage the transformation process of the functions of the NACF taking into account current proposed establishment of an Independent Statutory Agency.
- Prepare an independent (shadow) report from civil society

Representation on the NACF:

What are the criteria for being elected onto the NACF?

How do the civil society representatives on the NACF account and remain accountable to broader civil society?

OUTCOMES AND MAIN PROPOSALS

The issue of representation surfaced a range of views amongst members of the broader group. Proposed criteria for nomination onto the 10-person Civil Society structure were that the representative must

- Be representative of a sub- sector of Civil Society
- Be representative of a (geographical/provincial) region
- Belong to a national organisation
- Part of an active, properly registered and credible organisation with a constituency
- Be part of an umbrella body of civil society

Another suggestion was that there should be a mix of representatives including specialists for example from think tanks, individuals with specific expertise and organisations with national reach and broad constituencies.

The process of nomination and election of representatives will also need some further consideration.

The group also identified a number of individual characteristics that representative serving on the NACF should carry. These include *honesty, professionalism, integrity, accountability, commitment to the fight against corruption, pro-active attitude, sound understanding of corruption, dedication, leadership and listening skills*.

MAIN PROPOSALS

Individuals who represent civil society on the NACF need to

- Show integrity
- Be unbiased
- Have a mandate from a recognized constituency and undertake to report back to those who mandated them
- Be incorruptible
- Have a clear and common understanding of corruption

Representation should be limited to coalitions and umbrella bodies rather than individual organisations. These also need to represent the various sectors and vulnerable groups within civil society.

To ensure accountability representatives need to

- Commit to attend meetings
- Be mandated and follow a structured feedback loop
- Take into account and adhere to deadlines for submission
- Adhere to guidelines for engagement at the NACF

These accountability measures are not only valid for individual representatives but also need to guide the broader civil society sector in its interaction with the various constituencies.

Constituencies:			
How should unions be represented on the NACF?	How should professional associations be represented on the NACF in the civil society chamber?	How should the faith based sector be represented?	Which other constituencies should be represented in the Sector?

OUTCOMES AND MAIN PROPOSALS

There was a wide range of ideas and proposals around the constituencies that should be represented through the civil society sector on the NACF. Some felt that the focus should be on sector representation including constituencies such as youth, women, children, and people with disabilities. Others supported the view that only unions, faith-based and community-based organisations should be represented.

On a number of issues participants expressed different views and ideas. Further discussion and agreement is required for the following questions:

- Are professional bodies included as part of civil society or should they stand alone (expertise could be opted in as required)?
- Is the faith based sector represented as part of civil society? Who and how?
- How are unions represented as part of the civil society sector?
- Are NACF member organisations required to have direct constituencies/members?

In addition to representation on the NACF civil society may need to establish an internal organizing structure to coordinate the work within the sector.

MAIN PROPOSALS

Main proposals for constituencies are still outstanding and need to be developed going forward.

Relationships:

How does the civil society sector relate to the appropriate chapter 9 institutions?

Who else does the civil society sector relate to?

OUTCOMES AND MAIN PROPOSALS

Generally there was a strong voice for forming strategic and supportive working relationships with relevant Chapter 9 institutions including the SA Human Rights Commission, Auditor-General, the Office of the Public Protector and Independent Electoral Commission.

Other important stakeholders are:

- The media
- The private sector
- Research institutions
- Legal resources partners
- International organisations
- Regulatory bodies

Various platforms can assist in building these relationships. Whilst workshops and conferences provide an important networking platform other networking options including virtual networking via the internet must be explored.

MAIN PROPOSALS

Civil society must enhance its relationship with those Ch9 Institutions charged with dealing with corruption. These include:

- Auditor-General
- Office of the Public Protector
- IEC
- SAHRC,
- CGE; and
- OPP

Joint campaigns with Chapter 9 institutions can strengthen the work of the sector, and the Sector will therefore support those institutions, whilst maintaining an “arms length relationship”.

Special mention was made the work recently by the Office of the Public Protector in investigating and reporting on corruption. This has done much to renew confidence in that Office. There was a call to rally around the work of the OPP on the leases of the various SAPS headquarters as a focal point.

The sector also needs to establish working relationships with

- Statutory bodies such as the Independent Complaints Directorate (ICD), National Prosecuting Authority (NPA), Special Investigations Unit (SIU), Asset Forfeiture Unit (AFU) and the Hawks.

- International NGOs & Regional Structures including the AU, SADC, OECD and structures set up under the UN Convention Against Corruption (UNCAC) and organisations such as Transparency International and others
- Relevant research organisations.

Resourcing the work of the Civil Society Sector of the NACF:			
How can the civil society work on the NACF be resourced?	What does this mean in terms of human and financial resources?	What does this mean in terms of time?	What kind of organizing structure/secretariat is needed?

OUTCOMES AND MAIN PROPOSALS

To enable the work of civil society on the NACF, adequate financial and human resources are necessary. Participants identified a number of possible avenues to obtain funding, namely

- Mobilise for state funding
- Engage in fund raising (donor funding, donor roundtable)
- Establish membership fees
- Motivate for contributions from the business sector
- Use and strengthen existing broad based structures which already cover the various constituencies to enable provincial presence
- Unlock resources at NEDLAC

To ensure adequate funding for the sector civil society needs to play an active part in the budgeting process and may need to establish a resource mobilization committee or fundraising secretariat. State funding may need to be allocated directly from parliament to maintain independence.

On the other hand civil society can avail their expertise and existing resources to support the work of the NACF.

Resources need to be allocated for

- Ongoing engagement around the development of a civil society strategy on corruption
- A visible, active and responsible Civil Society Secretariat (beyond the PSC secretariat for the NACF)
- Provincial presence and decentralised administrative and organizational support
- Infrastructure and capacity building
- Professionalising & developing the leadership on this issue
- Remuneration for time and work by the civil society sector
- (Establishment of an independent body with a full time office and staff to run programmes at national level)

MAIN PROPOSALS

- The civil society sector needs to seek out dedicated (state) funding.
- It also needs human and infrastructural resources for a dedicated permanent secretariat
- Additional funding may need to be sourced for ad hoc appointments

WORK-PLAN



ESTABLISHMENT OF INDABA REPORT REFERENCE GROUP

The following people were nominated to serve on a Reference Group for the Indaba Report:

Commission	Name
Labour	Theodora Steel
Civil Society 1	Nkosikhulule Nyembezi
Civil Society 1	Lawson Naidoo
Access to Information	Alison Tilley
Additional	Sipho Mantula
Additional	Jacky Thomas

The purpose of the Reference Group is to peruse the draft report of the Indaba, make comments and corrections before the final report is sent out.

TIME-LINE

Date	Notation
30 June 11	Draft Report sent to Reference Group
04 July 11	Inputs from Reference Group received
08 July 11	Final report distributed

ESTABLISHMENT OF WORKING GROUP TOWARDS THE NACF SUMMIT

The following members were elected onto a Working Group to look at developing and coordinating a work plan towards the NACF summit in December 2011.

Abdoesalaam Isaacs

Nomonde Mqhayi

Jacob Molapisi

Alison Tilley

Shaine Griqua

The members of this Working Group would disseminate a draft work-plan by **07 July 2011** to the rest of the members of the Sector.

ANNUAL REPORT

Members are urged to submit their inputs into the Civil Society Sector Report for inclusion in the NACF Annual Report for 2011. The closing date is 07 July 2011.

FEEDBACK TO CONSTITUENCIES

All the delegates undertook to report back to their constituent structures on the deliberations at the Indaba.

ANNEXURES:

ANNEXURE A: THE PROGRAMME

Thursday 23 June 2011

SESSION ONE		
Time	Notation	Responsibility
08h00	Registration & Refreshments	
09h00	Welcome & Purpose of the Indaba	Jacob Molapisi , NACF
09h10	Overview of the Programme	Programme Director Ghalib Galant , SynergyWORKS
09h15	Keynote Address: <i>“The role of Civil Society and fight against corruption – making democracy count for the poorest of the poor”</i>	Ms Theodora Steele , Organising Secretary, COSATU
09h40	The National Anti-Corruption Forum: Current Structure and Achievements	Ms Alison Tilley , ODAC
10h00	TEA /REFRESHMENTS	
SESSION TWO		
Time	Notation	Responsibility
10h30	Setup of Commissions	Programme Director
10h45	Commissions: Round ONE	
		ALL Chairpersons & Rapporteurs
11h30	Mini-Break	
11h45	Commissions: Round TWO	
		ALL Chairpersons & Rapporteurs
12h45	LUNCH	

SESSION THREE		
Time	Notation	Responsibility
13h30	Report back from Commissions	Rapporteurs
14h30	World Cafe: <i>Discussion & Feedback on Commission reports</i>	ALL Chairpersons & Rapporteurs
15h30	Mini-Break	
15h45	Consolidate Discussion & Finalise Report:	ALL Chairpersons & Rapporteurs
16h30	Closing Remarks	Programme Director
16h45	Closure	

Friday 24 June 2011

SESSION FOUR		
Time	Notation	Responsibility
08h00-08h45	Refreshments	
08h45	Opening Remarks & Framing Day Two	Programme Director
09h00	Keynote Address: <i>Dealing with Corruption: towards a comprehensive societal response</i>	Mr Siphos Pityana, Chair CASAC
09h30	Identification of the Reference Group	Programme Director
09h45	Table Talk: <i>Towards a meaningful response to corruption</i>	ALL
10h00	Organising The Sector's Response: <i>Answering some practical questions</i>	ALL
11h00	TEA/Refreshments	

SESSION FOUR		
Time	Notation	Responsibility
11h20	Report back from Theme Groups Way Forward	
12h15	Closing Remarks & Vote of Thanks	Chairperson, NACF
12h30	LUNCH & Departure	

ANNEXURE B: KEYNOTE ADDRESS BY COSATU ORGANISING SECRETARY THEODORA STEELE

The Congress of South African Trade Unions (COSATU) thanks you for the invitation to do the keynote address at this important gathering under the topic of *“the role of civil society in fighting corruption”*. We are also participating as a delegate and looking forward to the outcomes and other initiatives to be taken up jointly by civil society in order to act against crime.

COSATU 9th National Congress held in September 2009 used a detailed report analyzing corruption in the Public Service by the Auditor General and the Public Service Commission. The Auditor General report detailed the many shenanigans by state officials and politicians to enrich themselves at the expense of the public.

Fighting corruption is not only a moral imperative but a major issue of social justice in this country. We noted that resources being intended for the public good are being diverted to individuals’ pockets and rob the poor of the much needed basic services. Therefore civil society has a major role to play in the fight against corruption.

Opportunities that should accrue to those who truly deserve them are monopolized by a handful of people who control budgets in departments and state agencies. It is also theft of our taxes that we work so hard to pay in order to improve public services. Therefore as community organisations and tax payers we should be in the fore front in the fight to combat corruption.

COSATU believes that Government should blacklist entities and their directors, employees who conduct business without disclosing their interests should be banned from doing business with government again, and all companies applying for government business should indicate the extent of shareholding by government employees and their spouses as well. In the event that an employee participates in a conflict of interest situation and derives a benefit, such benefit or gain should be paid back to the State. Instead of misusing state resources through moonlighting and manipulation of tenders, public servants should utilise their time and skill to promote socio-economic programmes to benefit the poor and the working class.

Corruption and peddling of political influence constitutes another threat to our democratic ideals. Often corruption goes hand-in-hand with misgovernment, secrecy and lack of accountability. Yet this flies against our constitutional values of open, democratic and accountable governance. The incestuous relationship between private sector and public sector elite forms a nexus of greed and evil that has to be broken.

The source of corruption is the capitalist system of personal accumulation of wealth. It is business that corrupts and tempts public representatives and it has always been run on the basis of the survival of the fittest, where the principle of ‘dog-eats-dog’ and ‘me-first’ applies.

The August, 2010 CEC decided on the following focus around corruption:

- Massive intensification of the **anti-corruption campaign**. ... We need to go beyond moral condemnation. We must deal with the systemic issues, which are reproducing corruption. To do this we need a far-reaching programme to fight this cancer. What are the institutional, legal, political, economic changes, which are required to lead society out of this malaise? Fighting the scourge of corruption requires clear leadership. We must develop a programme with civil society and our allies, and host a Summit with a broad range of society. ..We need to put the predatory elite on back foot. We need to strike a strategic blow against the elite- e.g. by reversing, or taking legal action. We need to commission serious research on the nature of the problem². Action against corruption must be incorporated into our Section 77 demands at NEDLAC.

- Building a powerful **anti-corruption institution of civil society** – a *corruption watch*, with the capacity - including a team of lawyers, accountants, auditors, etc to conduct preliminary investigations, and process these with the relevant authorities.

Corruption Watch

Over the past several months a task team appointed under the direction of the COSATU CEC and the NOBs has been engaged in establishing the institutional framework capable of giving expression to COSATU's objective of contributing to the fight against corruption. To this end a closed corporation (CC) named Corruption Watch (CW) has been registered. CW will be the body charged with leading and implementing the civil society campaign against corruption initiated by COSATU. The task team has also considered the aims and objectives of CW, the activities in which it will be engaged, its governance structures and the further steps required to establish CW on a sound footing. It has prepared a budget for the planning phase of the project.

What is corruption?

Corruption takes many forms. In essence however, it is a relationship between private parties that seek to advance their private commercial interests and to enrich themselves by developing a privileged relationship to the public authorities. The most common 'hard' forms that this takes is, firstly, in the relationship between public procurement bodies, on the one hand, and, on the other hand, private providers of goods and services.

Secondly, corruption is often encountered in the relationship between, on the one hand, public regulatory and licensing authorities, and, on the other hand, private interests that, in order to advance their private commercial interests, seek licenses and regulatory 'support' from the state. The activities that fall under these headings are generally subject to criminal sanction. While dishonest activities of public servants or parastatal employees who abuse or misappropriate resources belonging to their institutions may also constitute theft or fraud and be punishable as such, that these are public resources subject to misappropriation will also define these as instances of 'hard' corruption.

The aims and objectives of Corruption Watch

Under the broad heading of fighting corruption and building a corruption-free society, Corruption Watch has identified the following activities:

- It will act as a 'safe haven' at which whistleblowers, many of whom will be members of COSATU affiliates, will file reports of corrupt activities.
- CW will investigate alleged corrupt activities and, will, after conducting initial, but in-depth investigations, hand over dossiers that document prima facie evidence of corruption to the law enforcement agencies for further investigation and prosecution.
- CW will, where appropriate, initiate civil litigation against individuals and institutions engaged in corrupt activities.
- CW will develop advocacy campaigns and training programmes designed to increase awareness of corruption and to promote good governance practices that are designed to counter corruption.
- CW will carry out research into corruption and establish relationships with national and international bodies similarly engaged in fighting corruption

Taking from the **COSATU discussion paper to our Central Committee taking place on 27th to 30th June** on the political discussions *The Battle against Corruption and a Predatory Elite* we say that most members of the Alliance just like all South Africans are deeply concerned that corruption, particularly the abuse of public office

for private enrichment, is a cancer, threatening the foundations of our democracy. The overwhelming majority wants us to defeat the *'get rich quick schemes'* and the *'grab what you can whilst you can'* mentality.

COSATU continues to say Corruption is tantamount to stealing from the poor. It must be fought wherever it occurs, in the public and private sectors. It is not just a moral crusade but also an important political struggle to defend and deepen our democracy in the interests of the workers and the poor. The large majority of public representatives and senior officials are honest and dedicated servants of the public and are not involved in any form of corrupt activities. But for as long as a minority can get away with corrupt and fraudulent activities, it will undermine public confidence in all officials and the whole democratic system.

Our biggest concern is that some government leaders are also business leaders. Further family links to business also create a conflict of interests. Even if they are not benefiting directly from government tenders, the danger always exists that in taking decisions and in formulating policy, they will be guided by the impact this will have on their businesses rather than the broader public interest. It is the biggest threat to our efforts to establish a transparent and corrupt free government.

It is not good enough for ministers and public officials to hide behind the argument that they have 'declared an interest' in the companies they and their family own. The fact that they are in business to make money creates an inevitable conflict of interest when they are legislating in parliament, a provincial legislature or municipal council.

The phenomenon of politicians, public servants and unionists leaving the service to go and work in the same sector in the private sector, without a cooling off period, is known as *'throwing the javelin'*. The Department of Public Service, in recognition of this problem has developed guidelines for a cooling-off period of one year after a public servant leaves the public service. COSATU's counter proposal is a five-year cooling off period.

All public representatives must be forced to choose whether they are servants of the public or in business to make profits. They cannot be both at the same time. The succession of corruption scandals and the spread of the capitalist culture of greed and self-enrichment are threatening to unravel the fabric of society and to undermine all the great progress we have made.

Suggestions have been made that COSATU's motives for raising the issue of corruption is part of a campaign to target political opponents. This is untrue. The fight against corruption has to target culprits regardless of their political affiliations or ideologies.

The politics of patronage have destroyed the self-sacrificing and service ethic that characterised the movement for decades. It is a cancer eating slowly at all components of the mass democratic movement, from branch to national level.

We have welcomed the strong stance the ANC has taken against corruption. But the key issue is the need to act with urgency to implement our undertakings on this front.

We are happy that the Receiver of Revenue is conducting targeted lifestyle audits on those suspected of dodging their tax responsibilities. Powers exist to enable the Asset Forfeiture Unit to use similar methods to combat serious crime. They can both investigate the lifestyles of those they suspect of accumulating wealth illegally, and also freeze their assets even before securing a conviction.

Notwithstanding the work of government, a danger exists that if the current trajectory continues, the entire state and society will be auctioned to the highest bidder. Given that state procurement is on a massive scale (over R800 billion for infrastructure over 3 years), failure to deal with endemic corruption would leave us with a huge challenge. Corruption covers a range of activities in society, but the most insidious and dangerous is the systematic abuse of access to state power and political contacts, to accumulate capital illegally or immorally

(with a thin line often separating the two). This includes abuse of political influence to corrupt state tenders and procurement processes, and illegitimately win contracts; and abuse of political access and manipulation of BEE provisions to manufacture illegitimate business ‘deals’ (e.g. Arcelor Mittal, AMSA, and ICT) etc.

We believe that it will be from these conferences that the people of South Africa will be mobilised to rise and confront the small minority of political hyenas who are hell bent on scavenging on our hard-won victories. Therefore as civil society we must stand up and fight against all forms of corruption and we need to expose these cancerous acts in government, our communities and also within our own organisations.

FORWARD WITH THE FIGHT AGAINST CORRUPTION! FORWARD!



FIGURE 7 MOBILISING

ANNEXURE C: SOME USEFUL LINKS

Council for the Advancement of the South African Constitution (CASAC) Report on Corruption

<http://www.casac.org.za/2011/04/casac-proposes-a-new-independent-agency-to-investigate-acts-of-corruption/>

2006 Civil Society Report on Corruption under Apartheid:

www.liberationafrique.org/IMG/pdf/apartheidgrandc.pdf

and check out:

Transparency International:

http://www.transparency.org/tools/e_toolkit : Corruption Fighters' Tool Kit - Civil society experiences and emerging strategies

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