



# NATIONAL ANTI-CORRUPTION SYMPOSIUM

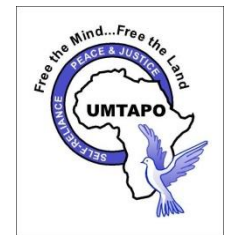
11<sup>th</sup> March 2016

Steve Biko Campus, Durban University of Technology (DUT)



EMBASSY OF FINLAND  
PRETORIA

**UMTAPO WITH THE SUPPORT OF THE  
EMBASSY OF FINLAND & DURBAN UNIVERSITY OF  
TECHNOLOGY (DUT)**



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**6. PROFILES OF SPEAKERS**

## Programme

08h30-09h00: Registration

09h15-09h30: Opening & Welcome by Professor David Macharia

09h30-10h30: Panel Presentation

**Ms Namhla Tengwa, UMTAPO Student Movement**

**Ms Bongzi Mlangeni, CEO of Social Justice Initiative**

**Dr David Lewis, CEO of Corruption Watch**

**Adv Kevin Malunga, Deputy Public Protector**

**Dr Pearl Mpilo Sithole, Public Services Commissioner (KZN)**

10h30-11h00: Tea

11h00-11h45: Q&A

11h45-12h30: Group Discussion

12h30-13h15: Presentation of Reports and Resolutions

13h15-13h30: Closing Remarks by Ambassador of Finland

13h30-14h30: Lunch

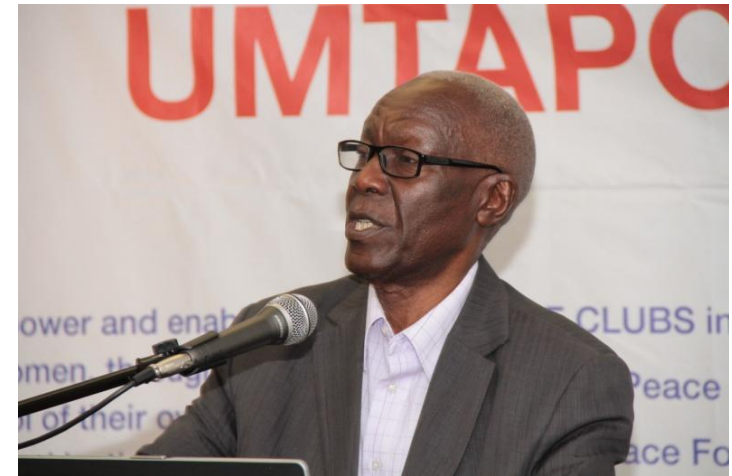
***Purpose:*** *To provide a platform for individuals, civil society organisations, academic institutions, the public & private sector, and all anti-corruption groups to gather and plan collective, sustainable action to create a caring and ethical society.*

## OPENING

The Symposium was opened by UMTAPO Patron and adviser, Professor David Macharia of the University of Nairobi.

Ms Luyanda Lubepe (USM – UJ) and Ms Tanusha Govender (USM – UKZN) were the Programme Directors.

Noting the urgency of the situation, Professor Macharia said: *“Corruption is eating into our bones. Resources meant for the people are going into private pockets. Together we must say NO to corruption and YES to working together to root out corruption wherever it rears its ugly head”*





## **Anti-Corruption :**

# *Strengthening Civil Society towards an Ethical Nation*

**Adv K Malunga**  
**Deputy Public Protector, South Africa**

*Civil society has a key role to play in fighting corruption, from monitoring public services, denouncing bribery to raising awareness of all economic and political actors. Since most cases of corruption involve public officials and private companies, civil society as an independent actor representing the interests of the general public is uniquely positioned to denounce and expose corruption cases and put pressure for reform. Governments therefore have to take measures to enable and strengthen civil society participation and civil society has to be aware of its role and make use of its potential leverage.*

Organisation for Economic Co-operation and Development (OECD)

## **1. INTRODUCTION**

There is general agreement amongst observers that there is greater awareness of the need for ethics, accountability and transparency in public life today. According to the UNDP<sup>1</sup> this realisation has been supported by the emergence of a consensus that good governance and sound public administration underpin sustainable development. *The impact of unethical and criminal practices in the public sector is unsupportable in the development of nations, resulting in a loss of confidence in public institutions and an erosion of the rule of law.*

Public officials are often entrusted with extensive executive powers and the power to approve the spending of vast sums of public money. In addition, the increased financial value of transactions between the private and public sectors provides ample opportunity for officials to take

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<sup>1</sup> **Public Service Ethics in Africa, Volume 1 United Nations Development Programme, Regional Bureau for Africa, 2001**

advantage of their public positions for personal benefit. When public officials are placed in conflict of interest situations, opportunities for corruption present themselves.

Therefore, one of the biggest challenges that face modern democracies is to reconcile the conflict between the legitimate interests of the citizenry by those who have been entrusted with guarding public interest and resources.

One of the critical democratic values that underline the reconciliation process is the maintenance of high ethical and moral standards which require political representatives and public officials to act with integrity.

The Constitution prescribes the institutional fabric that is needed for a just society and to protect and promote the integrity of our democratic systems, not only politically but also economically and socially. Essentially, the Constitutional promise of a better life for all means bringing to an end all manifestations of injustice and gross unfairness and synonyms such as prejudice, inequity, unlawfulness, inhumanity, maltreatment, inequality, malpractice and misuse.

Institutionalising our Constitution means that the transparency, accountability, *integrity* and legitimacy of its institutions, rules, practices and values upon which a society functions, must become endogenous. A high standard of professional ethics must be embedded in the fabric of everyday life, influencing the nature of everyday interactions without predetermining their outcome.

The manifestation of unethical behaviour in the form of maladministration, including indifference and corruption are key factors causing a loss of trust and confidence in public institutions and losses in valuable resources which were meant to support the economic and social development of the Country and its people. As a result, unethical conduct and a lack of service delivery has a direct impact in delaying fulfilment of our constitutional dream, which includes redressing past imbalances, gender inequalities and other inequalities.

According to the South African edition of the 2016 Global Economic Crime Survey (GESG), bribery and corruption are still reported as a major problem by more than a third (37%) of South African respondents – this, despite heightened publicity and exposure of a number of cases in recent years. *“When compared to the global average of 24%, the significance of the issue faced by the South African economy is clear and an area for grave concern.”*

Instances of bribery and corruption are rife at not only public entities but within the private sector as well. *“The reality is that for every corruptee that receives a bribe there is a corruptor that is prepared to pay it – both are equally guilty in terms of the law.”*<sup>2</sup>

The worrying factor is that 80% of South African respondents indicated that their organisations do have a formal business ethics and compliance programme in place. According to the GECS the majority of institutions agreed that errant and unethical behaviour and corrupt practices in any form were viewed as unacceptable– and not only do organisations practise and support this stance in-house, they take a public stance against corruption and are active in demanding accountability.

Emanating from the Constitution are other various pieces of legislation and regulations aimed at promoting ethical conduct by public officials in the execution of their duties. In South Africa, the ethical framework includes the following laws and regulations):

- 1) Public Service Act No. 103 of 1994;
- 2) Prevention and Combating of Corrupt Activities Act No. 12 of 2004);
- 3) Promotion of Access to Information Act, 2000 (No. 2 of 2000);
- 4) Protected Disclosures Act, 2000 (No. 26 of 2000);
- 5) Public Financial Management Act, 2003 (No. 56 of 2003);
- 6) Promotion of Administrative Justice Act, 2000 (No. 3 of 2000);
- 7) Public Protector Act, 1994 (No. 23 of 1994);
- 8) Labour Relations Act, 1995 (No. 66 of 1995);
- 9) Basic Conditions of Employment Act, 1997 (No. 75 of 1997);
- 10) Employment Equity Act, 1998 (No. 55 of 1998);
- 11) Executive Members’ Ethics Act, 1998 (No. 82 of 1998);
- 12) Witness Protection Act, 1998 (No. 112 of 1998);
- 13) Prevention of Organised Crime Act, 1998 (No. 121 of 1998);
- 14) The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (No. 4 of 2000);
- 16) Provincial Tax Regulations Act, 2001 (No. 53 of 2001);
- 17) Public Audit Act, 2004 (No. 25 of 2004); and

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<sup>2</sup> Global Economic Crime Survey 2016, 5th South African edition, March 2016

- 18) Intergovernmental Relations Framework Act, 2005 (No. 13 of 2005).
- 19) Codes and guidelines including
  - a) A Code of Conduct for the Public Service
  - b) The Minimum Anti-Corruption Capacity (MACC) requirements.
  - c) Application and implementation of a whistle-blowing policy.
  - d) The Promotion of the Prevention and Combating of Corrupt Activities Act (PRECCA).
  - e) A financial disclosure regime (conflict of interests)
  - f) A gifts register and policy.
  - g) Directives on remunerated work outside of the Public Service (RWOPS).
  - h) Measures to promote the reporting Financial Misconduct.
  - i) Access to information provided in terms of PAIA

Yet it seems that these ethics and compliance programmes and guidelines have not yet translated into behavioural transformation at an individual level. The GECS explored the possible reasons for this and, inter alia, noted the following:

- a) Perhaps business ethics and compliance are, however, to a large extent viewed as theoretical ideas, nice-to-haves that are buried deep inside a filing cabinet, only seeing the light of day when reviews are conducted or when proposals for business need to be submitted;
- b) Only 23% of the respondents could confidently say that training on codes of conduct is provided regularly, supported by regular communications and access to advice channels;
- c) There may very well be a divide between what Management would “*say and think is happening within their organisations and what’s actually happening on the ground*”;
- d) While internal audit is an integral part of the compliance framework, it cannot on its own be relied upon to assure continuous and unfettered compliance.
- e) “Reliable management reporting, real-time monitoring, tip-off mechanisms and other measures should form an organisation’s core arsenal in preventing and detecting issues in time”;

*“While it is clear that you need two parties to enter into a corrupt arrangement, it only takes one to stop it – a courageous ‘NO’ in the face of temptation (and often times fear) is all it takes to start paving the path to the end of corruption. The responsibility to stop corruption in South*



*Africa lies with every individual in both the private and public sectors – a decisive stance taken by every element of society in our individual capacities will lead to a revolutionary change ...”*

*(GECS, SA ed 5 , 2016)*

## **2. STRENGTHENING CIVIL SOCIETY**

*“The reason for being of a government is to protect and preserve those conditions which are necessary to ensure the continued existence of a civil society within which individuals can lead a worthwhile existence.”<sup>3</sup>*

### **2.1 The role of civil society**

*“Civil society”*, according to the UN, refers to the associations of citizens (outside their families, friends and businesses) *“entered into voluntarily to advance their interests, ideas and ideologies”*. The term does not include profit-making activity (the private sector) or governing (the public sector). Of particular relevance to the United Nations are organised labour (trade unions), professional associations, social movements, indigenous people’s organizations, religious and spiritual organizations, academics and public benefit non-governmental organizations (NGO’s).

Civil society and other constituencies are important because their experience and social connections can focus attention on the moral and ethical dimensions of decisions in the public sphere, expand resources and skills, challenge basic assumptions and priorities, protest unfair decisions and can also raise new issues,. Vibrant civil society institutions such as the churches, political parties, pressure groups and other non-governmental organizations as well as the media can provide effective oversight role in combating unethical practices.

A critical aspect of participatory governance is a constructive engagement between the state, the market and civil society that enables citizens to exercise voice and engage in decision-making. Such an engagement seeks to establish *“a reciprocal relationship between civil society and institutions in governance based on mutual respect, trust, legitimacy, transparency and competency for effective, responsive and accountable governance towards social change and transformation.”<sup>4</sup>*

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<sup>3</sup> Mbatha, Joel Sifiso (2005) ;The ethical dilemmas of whistle-blowing and corruption in the South African public sector. URI: <http://hdl.handle.net/10530/29>. Date: 2005

<sup>4</sup> The Commonwealth Foundation, Civil Society Engagement Strategy, Updated March 2015

## 2.2 Enablers for strengthening civil society:

### a) Capacity

Only if the capacity of society is built will it be able to hold governments accountable and thereby contribute to enhance constructive state-society relations

The local level often holds the most potential for building trust and constructive state-civil society relations, creating a community-based culture of accountability. That being said, a common roadblock is that people get frustrated when they report matters to the state, and no action is taken. Even when response mechanisms are in place, local government's capacity to react to civil society reports and grievances is often limited.

### b) Empowerment as a Prerequisite for Accountability

Empowerment enables citizens to articulate their needs and demands.

Accountability provides states with an incentive to respond to the needs of their citizens: Governments that can be held accountable for their actions are more likely to respond to the needs and demands articulated by their population.

Accountability is the process and means by which public services and government are held to account for their actions, ensuring that public resources are being used in accordance with publicly stated intentions, including the (public procurement) values contained in section 217 and the (public service) standards envisaged in Sect 195 of the Constitution , Batho Pele, etc are being adhered to.

A protected right to complain against public institutions is an essential part of empowerment to enforce accountability is, which implies

- i. the obligation on state institutions to explain and justify conduct.
- ii. Interrogation of the conduct and questioning the adequacy of the information or the legitimacy of the conduct
- iii. Adjudication by means of finding on the conduct under scrutiny and remedying prejudice and impropriety
- iv. True accountability gives visible meaning to constitutional democracy by ensuring that authorities are “fair and take responsibility, acknowledge failures and apologise for them, make amends, and use the opportunity to improve their services”

c) Transparency/Access to information

*Governance implicitly guarantees the civil and human rights needed for effective ethical government and the information flows that enable the members of society to be informed on government activities.<sup>5</sup>*

Transparency refers to the availability of information to the public on the transactions of the government and the transparency of decision-making processes. This means legislative efforts, but also making decision makers on the local level aware of the rights of civil society.

Many changes have occurred since 1994, aimed at the institutionalisation of formal structures for openness, the disclosure of malpractice and transparency. The Constitution, the Public Service Act Proclamation 103 of 1994 and the Promotion of Access to Information Act of 2001 (Act 2 of 2001) enlarged the scope of transparency in the affairs of the public sector. Together with the Promotion of Administrative Justice Act of 2000 (Act 3 of 2000) and the Protected Disclosures Act of 2000 (Act 26 of 2000), it constitutes a major advance in the development of good governance. These Acts create a framework for members of the public to play a crucial role as partners in fighting corruption and mismanagement in both the public and private sectors.

d) Whistle-blower support

Whistle-blowing is understood to mean the act of disclosing information in the public interest. It is increasingly recognised that whistle blowers have an important role to play in combating wrongdoing, including corruption. As a result, national and international anti-corruption policy agendas have begun to focus on measures aimed at encouraging and protecting whistle blowers in recent years.

e) Legal and institutional frameworks for civil society engagement

By being able to set the legal-political framework in which civil society evolves, the state controls the enabling environment for civil society and may limit and control the power of civil society through the adoption of a restrictive legal framework and a policy of selective inclusion.

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<sup>5</sup> Mbatha, Joel Sifiso (2005) ;The ethical dilemmas of whistle-blowing and corruption in the South African public sector. URI: <http://hdl.handle.net/10530/29>. Date: 2005

The regulatory framework in South Africa aims to establish a progressive public space in which state–civil society relations could be managed and the non-profit sector funded.

There are a number of sections in the Constitution, which deal directly with the concept of public participation, charging both houses of the national Parliament and all provincial legislatures with the responsibility of facilitating public participation.

The Constitution and transversal legislation further created a network of oversight and accountability agencies that include the Public Protector, the Auditor-General, Public Service Commission, the Judiciary, Financial Intelligence Centre and Legislature, by means of which civil society can ensure that state affairs are conducted with integrity and general good governance.

f) Trust.

*“Political participation declines in a context where poverty, inequality and corruption increase, where citizens become increasingly sceptical and distrustful of political parties and institutions”<sup>6</sup>*

While collective action and mass mobilisation may sway government in the short and medium term, the disadvantage of such protest action is that it does not build trust between the movements and the state to pursue long terms constructive engagement and policy alternatives.

*“What often results in essence, is mutual distrust and antagonism and no constructive way forward”<sup>7</sup>*

Constitutional institutions such as the Public Protector are intended to act as mediator between aggrieved individual and public institutions to ensure fairness and legality in public administration. The Public Protector has an important role in remedying government’s administrative injustices or failures and reconciling the people with the state, which helps to divert, dilute and mitigate the anger and extreme frustration.

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<sup>6</sup> Carothers, T, 2005, ‘What really lies behind challenges of deepening democracy and establishing the rule of law?’, presentation at Centre for the Future State conference New Challenges in State Building, 21 June 2005, London

<sup>7</sup> Kirty Ranchod, State-Civil Society Relations in South Africa: Some Lessons from Engagement, Policy: issues & actors, Vol 20 no 7, Centre for Policy Studies South Africa

g) Legitimacy and representation

According to some writers<sup>8</sup> legitimacy is “*the perception among citizens that the government and its actions are legally and morally correct and acceptable.*” It is important that the actions of political representatives and public officials contribute to the acceptance of government decisions, programmes and policies.

h) Political Will

Identifying and building political will for accountability requires clarity on who holds the powers and who can work to strengthen political will for improved accountability and transparency. This includes management in professional ethics. Ethical leadership is leading by knowing and doing what is right. Ethical leadership is divided into two parts. The leader must act and make decisions ethically, and second, the leader must also lead ethically in his/her attitudes and interactions.

i) Guiding values

*“The key to society finding corruption to be unacceptable rests on an approach that is value driven instead of also being related to cause and effect”<sup>9</sup>*

Values, norms, and trends in society have a direct bearing on the way a government functions. It is therefore important to consider the various guiding values, including democratic values, prescribed guidelines, and guidelines derived from society, which ultimately influence ethical governance. Transparent deliberation, consultation, and the exercise of discipline is required to achieve the objectives of democracy and create conditions within which each citizen will be able to achieve the greatest possible well-being as promised by the Constitution. Some of these democratic values include

- Responsibility and responsiveness
- Openness and transparency
- Representation (of public interests)

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<sup>8</sup> Fox, w. And Meyer, j. 1996. Public administration dictionary. Kenwyn: juta.

<sup>9</sup> Mbatha, Joel Sifiso (2005) ;The ethical dilemmas of whistle-blowing and corruption in the South African public sector. URI: <http://hdl.handle.net/10530/29>. Date: 2005

- Legitimacy
- Accountability

Other guidelines that could be derived from society include probity, religious doctrine and value systems, thoroughness, effectiveness and efficiency, and fairness and reasonableness.

Ethical dilemmas arise when public servants are tempted to substitute their personal values for those of society and/or the community at large as a first priority.

### **3. THE ROLE OF THE PUBLIC PROTECTOR**

#### **3.1 Introduction**

The Public Protector as a Constitutional institution mandated to receive complaints regarding improper conduct by the state, investigates these and takes measures to remedy the issue. It is guided by 16 pieces of legislation including the Executive Members Ethics Act, the Promotion of Access to Information Act, the Protected Disclosures Act. It is also guided by a number of international laws such as the UN conventions, OECD, AU and SADC instruments. Within this framework, the Public Protector seeks to promote ethical conduct within the public sector.

As indicated earlier, and also mentioned by the Public Protector on occasion, there are two essential aspects in building integrity within a system and a society namely

- Anti-corruption initiatives, and
- Promotion of ethical behaviour



The Public Protector forms part of the national integrity framework, together with other oversight and accountability bodies that include the Legislature, Auditor-General, Public Service Commission, the Judiciary, Financial Intelligence Centre, , media and society. These bodies play an important role in enforcing Democratic values of good governance, the Rule of Law and quality of life.

In working towards these aims, the Public Protector strongly relies heavily on whistle-blowing and protected disclosures. The Public Protector's approach is broader than just protected disclosures under the Act; it includes also anonymous reporting. Currently the number of reports received this way significantly exceeds the cases of protected disclosures reported to the Public Protector.

### **3.2 Constitutional mandate of the Public Protector**

Established under chapter 9 of the Constitution, the Public Protector has the power under Section 182 of the Constitution to strengthen and support constitutional democracy by:

- a) investigating any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;
- b) to report on that conduct; and
- c) to take appropriate remedial action.

The Public Protector's mandate covers all organs of state at national, provincial and local levels, including local government and extends to state owned enterprises, statutory bodies and public institutions. Court decisions are excluded. *Section 182(4) enjoins the Public Protector to be accessible to all persons and communities*

The Constitution anticipates mandate expansion through legislation, and legislation passed since establishment 15 years ago has resulted in the Public Protector being a multiple mandate agency with the following 6 key mandate areas:

- a) Maladministration and appropriate resolution of dispute the Public Protector Act 23 of 1994(PPA). The maladministration jurisdiction transcends the classical public complaints investigation and includes investigating without a complaint and redressing public wrongs(Core);

- b) Enforcement of Executive ethics under by the Executive Members' Ethics Act of 1998(EMEA) and the Executive Ethics Code (Exclusive):
- c) Anti-corruption as conferred by the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCAA) read with the PPA(Shared);
- d) Whistle-blower protection under the Protected Disclosures Act 26 of 2000. (Shared with the Auditor General and to be named others;
- e) Regulation of information under the Promotion of Access to Information Act 2 of 2000;(PAIA) and
- f) Review of decisions of the Home Builders Registration Council under the Housing Protection Measures Act 95 of 1998.

Except under the EMEA, anyone may lodge a complaint with the Public Protector against any organ of state and the service is free. The complainant need not be a victim of the alleged improper conduct or maladministration. The Public Protector may institute an investigation on own initiative and does not need to receive a complaint.

The Constitutional mandate of the Public Protector to investigate and report on improper conduct or improprieties in state affairs translates to a multi-pronged approach to handling complaints to ensure

- a) correction of transgressions by organs of State,
- b) a proper diagnosis and correction of any administrative inadequacies, including systemic failures
- c) that proper redress is provided in cases requiring remedial action.

#### **4. CONCLUSION**


I have highlighted that the abundance of legislative measures and guidelines will not ensure effective enforcement and promotion of ethical conduct unless the values and principles of accountability, integrity and responsiveness is institutionalised at organisational level and internalised at individual level.

Ethics is at the heart of our society, the very same public official from whom we expect the highest standard of professional ethics as a public servant, is most likely to be insured by one of the entities represented here. If we are therefore serious about establishing a culture



of ethical governance, we need to do it right across the board, and commit our joint resources to the same goal - uprooting unethical conduct everywhere.

The future depends on the actions we take today in pursuit of our collective destiny. Don't sit on the side or moan the darkness. The key to combating unethical governance does not lie in lone crusades by integrity institutions such as the Public Protector; it lies in a national quest for ethical governance by all of us.



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**Anti-Corruption:**  
*Strengthening  
Civil Society  
towards an Ethical  
Nation*

**Bongi Mlangeni**  
**CEO, Social Justice Initiative**

**Key Messages:**

- To positively transform our society, let's begin with transforming ourselves as individuals. It is easy to see the corrupt as the 'other' ...
- Our leaders come from our communities; they are shaped by the values that we collectively create. When 'we deliver more value, we can demand more'.
- Introspect with honesty – what are your personal values, do they promote honesty, integrity, fairness, and do they create a better society for all? Are you saying no to corruption, not just in words, but in the way you behave?



**Personal transformation:**

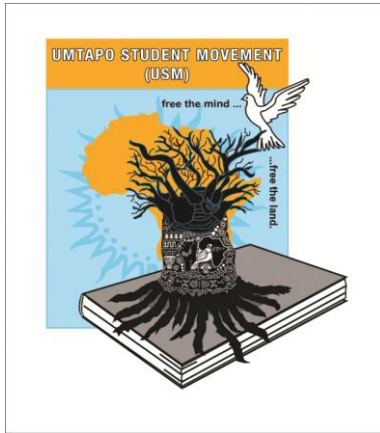
- At Corruption Watch, we defined corruption as the abuse and misuse of public power and resources.
- My personal understanding: **Corruption is theft of a ‘public’s dignity – aimed at devaluing the lives of others at all cost.**
- We have gone through this devaluing in various ways before – slavery, colonisation, collusion, etc.
- There has to be a point when we say ‘enough is enough’ to those who say ‘it is our turn to eat’.
- We can do this by making the fight a personal one – stop any form of dishonesty in our personal lives, by introspecting how small acts of dishonesty create the journey to a corrupt society – ‘playing the system’, ‘surviving,’ e.g., paying for your driver’s license. Fight it in the public – by refusing to participate in corruption and exposing those who are corrupt.

**Leading with integrity – should be an integral part of the way we live as a society.**

- Creating a society centred around value of ‘integrity’ also means addressing issues around wealth distribution, fair allocation of resources, and dealing head on with the causes of inequality.
- The corrupt are driven by greed. Simply NOT caring for the other.
- How can we use the wealth that is in limited hands to contribute meaningfully towards restoring people’s dignity?
- How can the privileged use their position to benefit others in a manner that is fair and promotes dignity?

Young people have a chance to re-write the script of our society. What do you hold dear – accumulation at the expense of others? A society that is caring, sharing, and safer for you today and posterity?

For the older generation, what can we do with the time we have to support young people’s efforts in building the society that is envisioned by the Constitution – one that is fair and just to all?



## Anti-Corruption:

# *Strengthening Civil Society towards an Ethical Nation*

**Namhla Tengwa**

**USM (UKZN – Howard)**

**CORRUPTION is unethical, immoral conduct aimed at benefitting a person or persons at the expense of others; it exploits public resources and threatens democracy and the stability of the state.**

This is a definition derived from inputs by students representing 15 universities around the country who attended the UMTAPO Training on Democracy, Human Rights and Anti-Corruption, and works as a point of departure for our discussion on corruption.

There are various causes of corruption; among these are greed, false sense of entitlement, poverty, erosion of the ideal of Ubuntu, lack of ethical leadership and a lack of citizen participation to name a few. Corruption presents itself in many forms but its central feature is that dishonesty is used to obtain an advantage one is not entitled to.

The main reason really why corruption continues to flourish is greed and the desire for material possessions that we have not earned. People feel as if they deserve things and just take, using whatever means available to them. This is particularly true in the public service where people always try to find ways to advance themselves often resorting to unethical and criminal behaviour to do so. Further, it may be called something fancy like corruption but at its core, it's thievery, just plain old thievery. For many who are poor in this country, they feel as if this thievery is the only way that they can work themselves out of the abject poverty that characterises their existence.

## Effects

Corruption affects everyone in different ways. Its effects have many dimensions such as political, economic and social. In the political sphere, corruption impedes democracy and the rule of law; this makes it a threat to democracy.

In social sphere, it discourages people from working together for the common good. It also leads to frustration and general apathy among the public resulting in a weak civil society. Demanding and paying bribes becomes the tradition of the society, which simply means if you don't bribe someone in a position you will not get the service you are legitimately entitled to. Many people live in poverty and a poor environment just because they don't get the service that they are entitled to. Usually the money that is budgeted for service delivery to benefit the entire community ends up enriching one person's life and his/her relatives while the rest of the community is suffering. It also worsens social inequality and widens the gap between the rich and poor.

In the end, corruption creates a society that is characterised by injustice, dishonesty and suspicion; this is not a society one can build a nation on. Paying a bribe to get a license or having your friend at the Department of Human Settlements put you on top of the list of people who need houses even though you are not who the program needs to reach first may seem trivial but it has far-reaching effects. A society such as this turns ordinary people into thieves and breeds resentment amongst those who are entitled to what you received through dishonest means.

No nation can continue to operate in this manner; a classic example of this is Nigeria. Ever since the dawn of its independence, Nigeria has been inundated with a slew of leaders whose sole purpose was to loot the country and cheat its people and in order to achieve this they institutionalised corruption. And as I mentioned earlier, this means that people have to pay bribes in order to get services they are entitled to. If you do not pay then you have little recourse because the proponents of corruption put long processes and procedures in place to frustrate attempts to challenge corrupt action. It is clear from the manner in which the institutions set up to investigate and punish corruption conduct their business that the government will not protect its citizens from corrupt entities and individuals. Ordinary people are thus left in a position of utter desperation, they are forced to become criminals in order to advance in society and take care of their families. Our Constitution is founded upon the value of dignity; corruption strips away not only the dignity of each and every person but the dignity of the society as a whole.



## **Solutions**

The picture that I have painted thus far looks bleak and it seems as if we find ourselves stuck in an abyss from which we cannot climb out of, but the people of this nation have always been resilient and have been able from time to time to unite to fight injustice. There is indeed hope and that hope lies in people in the society participating fully in the business of government, a citizen's duty is not just to vote every 5 years and be done with it; the kind of dispensation we live under demands more from us, it demands that we take action and not to be silent. Corruption and dishonesty flourishes because this society has become apathetic and we have become withdrawn from a reality that seems daunting. We have no compassion for the suffering of others and our view of life is centred solely upon looking out for number one with no thought to the society as a whole.

In order to tackle the problem of corruption and to defeat it, our society needs to be one that is characterised by the ideal of Ubuntu which recognises that no person is an island entire upon himself/herself. We are all connected by a thread and that thread ties us to one destiny as a nation; this means that the fight against corruption must be one that is fought by our communities and not just individuals.

Further, ethical leadership needs to be the order of the day; its needs to be the criterion that transcends all social division. This means that we need to place it above cultural, ethnic and tribal loyalties; ethical leaders are transparent and accountable leaders, just the sort of people this country is lacking.

Most of all, civil society and communities need to speak in one very loud voice, a voice that says we do not tolerate corruption in any shape or form. Not just corruption at the highest levels but even corruption by a lowly clerk or someone who conducts driving tests. The truth is if we do not unite as a nation to fight corruption then this nation will become nothing more than a den of thieves and this is not how the sacrifice of so many should be treated. They deserve far more than we have done as a nation and we are duty bound to honour that sacrifice and create a society worth living in.

We, as members of the UMTAPO STUDENT MOVEMENT (USM), some of whom have undergone training in Democracy, Human Rights, and Anti-Corruption, will actively speak out and campaign against corruption at our universities and in our communities. The USM calls upon all other student formations to distance themselves from corrupt activities and to join in the struggle towards building a new ethical nation based on anti-racism, anti-sexism, and anti-corruption.



## *Strengthening Civil Society towards an Ethical Nation*

From Apathy to Corruption: A wrong, yet logical, trend  
(powerpoint presentation)

**Dr Pearl Mpilo Sithole**

**Public Service Commissioner in KwaZulu-Natal**

- Why is corruption endemic? Can we pause to diagnose?
- [not placing the mirror – which *I can quickly do if required to*]
- [not comparative with other countries – *I cannot do that right now*]

⇒ This presentation attempts to contextualize and thus diagnose the persistence of corruption.

### **Key argument: The problem is deep**

- By the time we deal with corruption, we are doing **crisis management**
- We have to start from **the kind of society that we are**
- It is a society that is plagued by three incessant Human Factor issues:
  - 1) Damaging historical patronage – with culprits still manoeuvring (odd sense of superiority and entitlement by certain forces)
  - 2) A society ‘schooled into buying space’ in the queue
  - 3) A bureaucracy that unintentionally sends wrong messages



### 1) Damaging historical patronage

- The markets that have no socio-political loyalties - do not 'know' rural areas; spatially skewed planning; land and capital non-reform; even donors do not give to Black-led NGOs
- Bad planning inheritance – not influenced by spatial redress – no norms and standards for rural areas
- Plans deliberately see 'the social' as the last issue to consider, AFTER 'the economic'

### 2) 'Buying space in the queue'

- Something needs to be done on 'equitable listening'; not just participation (so that equitable attention is feasible)
- Currently, to get things happening the strategy is either 'ill' [i.e. nepotism, bribery, buying favour] OR protest [toyì-toyi] – especially towards elections
- A citizenry that operates from the periphery of 'ideal citizen' and copes by all means
- The concept of leadership needs to include more than – “some ahead and others following”. Moral vision is missing.

### 3) Wrong institutional culture

- A bureaucracy that has no strategy for **values** because they are 'not concrete'
- A bureaucracy that sends the wrong messages via its 'objective' approaches to development (stats; urban-orientation)
- No consequences for lack of professional ethics; in fact service is hardly such – it is power and entitlement – people have to beg
- **No spaces to rehash or discuss professional ethics in the sector and professional environment**

### The Public Service Commission

- The work of the Public Service Commission is about values – e.g. Financial Disclosures, Monitoring Financial Misconduct, Integrity/NAC,
- [PAI; LRI; PE; R – M&E]\*\*
- The **Constitutional Values and Principles** are the backbone of this work



- The nebulous nature of the Human Factor issues – and how ‘objectivity’ cannot be all there is to our approach

\*\* Public Administration Investigations; Labour Relations Investigations; Professional Ethic; Research – Monitoring and Evaluation

### **Some issues from experience**

- In such an environment it is futile to just throw codes at people. Even if this is what we do for now; we have to review strategy.
- Public Service (PS) has no spaces to re-harsh professional ethics within its sectors
- Nuance good governance to be beyond clean audits (co-ordination and oversight measures)
- Deal with high-levels of apathy in PS – Watchdogs are only assisting and information required helps the country to place the mirror before itself
- Develop consequences for lack of professionalism
- Desist from over-rating certain sectors more than others (‘Financial morality’, and ‘legalism’ are not the only approaches to remedy societal ills)

### **Public Service Values and Principles, Chapter 10, section 195 (1)**

- a) A high standard of professional ethics** must be promoted and maintained.
- b) Efficient economic and effective use of resources** must be promoted.
- c) Public administration must be development oriented.**
- d) Services must be provided impartially, fairly, equitably and without bias.**
- e) People’s need must be responded to** and the public must be encouraged to participate in policy making.
- f) Public administration must be accountable.**
- g) Transparency must be fostered by providing the public with timely,** accessible and accurate information.
- h) Good human resource management and career development practices** to maximize human potential must be cultivated.
- i) Public administration must be broadly representative of the South African people** with employment and personal management practices based on ability, objectivity, fairness and the need to redress the imbalances of the part to achieve broad representation.

**So, it is in the ‘good book’; why not DO it**

- Constitutional values and principles are trying to deal with all three of the dislocations:
- Historical paternalism of ‘one sector’
- ‘Buying space’
- Wrong institutional culture

**The question is:**

Are we living by example in the overall professional culture?.....and in terms of general fairness to all?

It appears as though we are suggesting that:

“All people are equally rational and trustworthy.....



*“All people are equally rational and trustworthy.....*

.....but those who act on behalf of ‘the markets’ are more rational and trustworthy than others”



*..... but those who act on behalf of institutions are more rational and trustworthy than others”*

#### Beyond crisis management

- ⇒ We need to move swing the culture from ‘crisis management’ to a healthy society that sees INTEGRITY as core part of living
- ⇒ I would venture to say: **a fair and morally-grounded institutional culture** should deliver us from apathy and corruption
- ⇒ However, the country has not resolved its stance on the concept ‘morality’; and so we are reduced to crisis management for now

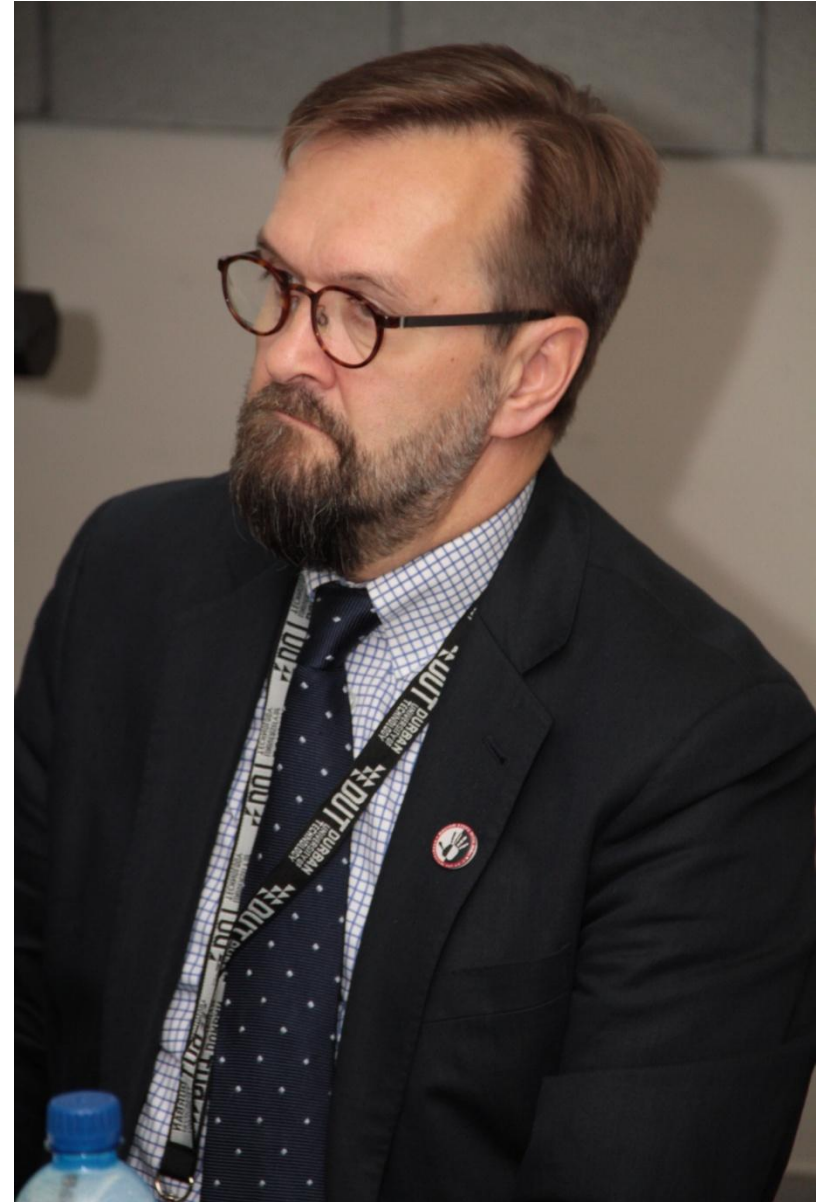
## **CLOSING REMARKS AFTER PANEL PRESENTATION**

At the conclusion of the panel presentation, the Ambassador of Finland, Mr Petri Salo, said: “Corruption is like cancer. It rocks the system and kills it slowly”. This, he said, is destructive and an environment in which democracy cannot thrive.

He quoted the example of Georgia in Russia where the whole police force was fired and then half of them re-employed on condition that they be re-trained – this drastically reduced corruption. Highlighting the fact that in order to deal effectively with corruption, it must be rooted out from the core and a fresh start be made.

The National Symposium on Anti-Corruption was one component of an UMTAPO National Programme on Democracy, Human Rights, and Anti-Corruption funded by the Embassy of Finland. Other key components are:

- A 6-Day Training Course on Democracy, Human Rights, and Anti-Corruption for university students around the country
- Inter-school debates on Democracy, Human Rights, and Anti-Corruption, and
- Community workshops on Democracy, Human Rights, and Anti-Corruption



## **SUMMARY OF GROUP DISCUSSION AND RESPONSES**

### **GROUP 1**

#### **1. WHAT ARE THE ROOT CAUSES OF CORRUPTION AT UNIVERSITIES?**

- Outsourcing of services (security, cleaning, catering and tender systems)
- Price-billing (service providers)
- Nepotism
- Bribes and kick-backs
- False Research findings

#### **2. THE KEY ROLE PLAYERS**

- Student leaders
- Tendering Committees
- Student Development Officers
- Unions

#### **3. HOW DO WE TACKLE THE PROBLEM IN A SYSTEMATIC AND EFFECTIVE WAY?**

- Human resources must monitor the process to avoid nepotism during recruitment
- There must be proper accountability and checks and balances by an elected body
- Strengthen the tender committee
- An Ethics committee must be put in place for research findings

### **GROUP 2**

#### **1. WHAT ARE THE ROOT CAUSES OF CORRUPTION IN NATIONAL GOVERNMENT?**

Poverty, bribery, greed, silence, tenders

**2. WHO ARE THE KEY ROLE PLAYERS?**

Politicians, people in power, government ministers, rich people, general society

**3. HOW DO WE TACKLE THE PROBLEM IN A SYSTEMATIC AND EFFECTIVE WAY?**

- Educate leaders and general members of society
- Protection of whistle-blowers
- Use media as a source of awareness training
- Resources
- Protest action
- Ethical leaders are needed – in the election process screening should take place to ensure trustworthy leaders.

**GROUP 3**

**1. WHAT ARE THE ROOT CAUSES OF CORRUPTION IN LOCAL GOVERNMENT?**

- Lack of information
- Unemployment and poverty
- Greed
- Cadre deployment

**2. THE KEY ROLE PLAYERS?**

- Municipal managers
- Councillors
- Ordinary members of society
- Traditional leaders

**3. HOW DO WE TACKLE THE PROBLEM IN A SYSTEMATIC AND EFFECTIVE WAY?**

- People must be informed through campaigns and symposiums
- Jobs must be created, creation of programmes and small businesses

- Accountability and Transparency
- Cadre deployment must be abolished

#### **GROUP 4**

##### **1. WHAT ARE THE ROOT CAUSES OF CORRUPTION IN THE PRIVATE SECTOR AND WHO ARE THE KEY ROLE PLAYERS?**

- Nepotism
- Minority Driven (Role Players) – Owners of companies, Shareholders, Directors
- Import and export trade
- Weak checks and balances
- Entitlement
- Competition

##### **2. HOW DO WE TACKLE THE PROBLEM IN A SYSTEMATIC AND EFFECTIVE WAY?**

- People must take action and lead by example
- Change the value system. Bring back values of Ubuntu
- Equitable sharing of profits - there needs to be regulations put in place
- Get informed about Corruption Watch

#### **GROUP 5**

##### **1. WHAT IS THE ROLE OF THE MEDIA IN THE PERPETUATION OF CORRUPTION?**

- Glamorising of the lifestyle of the rich and famous which does not reflect the material conditions of the majority of the population.
- Fake personalities perpetuate this reality of a few privileged people
- Reporting is often sensationalised with regard to corruption, increased reports of corruptions normalises this situation.
- Failure and false reporting the truth in the interest of sales

##### **2. HOW DO WE TACKLE THE PROBLEM IN A SYSTEMATIC AND EFFECTIVE WAY?**

Use social media to fight social ills and raise mass awareness

## **SUMMARY OF KEY POINTS FROM PRESENTATIONS**

### Challenges

- **Corruption is theft of a ‘public’s dignity – aimed at devaluing the lives of others at all cost.**
- Need for political representatives and public officials to act with integrity.
- High standard of professional ethics must be embedded in the fabric of everyday life
- The reality is that for every corruptee that receives a bribe there is a corruptor that is prepared to pay it – both are equally guilty in terms of the law
- The markets have no socio-political loyalties - do not ‘know’ rural areas; spatially skewed planning; land and capital non-reform; even donors do not give to Black-led NGOs
- Moral vision is missing
- A bureaucracy that sends the wrong messages via its ‘objective’ approaches to development
- No consequences for lack of professional ethics





## Solutions

- The **Constitution** prescribes the institutional fabric that is needed for a just society and to protect and promote the integrity of our democratic systems, not only politically but also economically and socially
- Only if the **capacity** of society is built will it be able to hold governments accountable and thereby contribute to enhance constructive state-society relations
- **Empowerment** enables citizens to articulate their needs and demands.
- It is increasingly recognised that **whistle blowers** have an important role to play in combating wrongdoing, including corruption.
- There are a number of sections in the Constitution, which deal directly with the concept of **public participation**, charging both houses of the national Parliament and all provincial legislatures with the responsibility of facilitating public participation.
- The Constitution and transversal legislation further created a **network of oversight and accountability agencies** that include the Public Protector, the Auditor-General, Public Service Commission, the Judiciary, Financial Intelligence Centre and Legislature, by means of which civil society can ensure that state affairs are conducted with integrity and general good governance.
- **Values, norms**, and trends in society have a direct bearing on the way a government functions. It is therefore important to consider the various guiding values, including democratic values, prescribed guidelines, and guidelines derived from society, which ultimately influence ethical governance.

While it is clear that you need two parties to enter into a corrupt arrangement, it only takes one to stop it – a courageous 'NO' in the face of temptation (and often times fear) is all it takes to start paving the path to the end of corruption. The responsibility to stop corruption in South Africa lies with every individual in both the private and public sectors – a decisive stance taken by every element of society in our individual capacities will lead to a revolutionary change...

Adv Kevin Malunga

- There are two essential aspects in building integrity within a system and a society namely
  - **Anti-corruption initiatives, and**
  - **Promotion of ethical behaviour**

- The key to combating unethical governance does not lie in lone crusades by integrity institutions such as the Public Protector; it lies in a **national quest for ethical governance by all** of us.

- We can do this by making the fight a personal one – stop any form of dishonesty in our personal lives, by introspecting how small acts of dishonesty create the journey to a corrupt society – ‘playing the system’, ‘surviving,’ e.g., paying for your driver’s license. Fight it in the public – by **refusing to participate in corruption and exposing those who are corrupt.**

To positively transform our society, let’s **begin with transforming ourselves as individuals.** It is easy to see the corrupt as the ‘other’ ...

Bongi Mlangeni

The USM calls upon all other **student formations** to distance themselves from corrupt activities and to join in the struggle towards **building a new ethical nation based on anti-racism, anti-sexism, and anti-corruption**

Namhla Tengwa

- The fight against corruption must be one that is fought by our **communities** and not just individuals.
  - **Ethical leadership** needs to be the order of the day; its needs to be the criterion that transcends all social division
  - Develop **consequences for lack of professionalism**
  - We need to move **the culture from ‘crisis management’ to a healthy society that sees INTEGRITY as core part of living**

## **PROFILES OF SPEAKERS**

### **DAVID LEWIS**

David Lewis is the executive director of Corruption Watch, a not-for-profit NGO dedicated to combating corruption.

Lewis received his training in economics from the Universities of the Witwatersrand and Cape Town. Between 1975 and 1990 he worked in the trade union movement, in what is now the South African Transport and Allied Workers Union. From 1990 Lewis directed the Development Policy Research Unit, a UCT based research group specialising in trade and industrial policy. Between 1994 and 1996 Lewis was Special Advisor to the Minister of Labour and co-chaired the Presidential Commission on Labour Market Policy.

Lewis was a member of the Task Team responsible for drafting the Competition Act. With the promulgation of the Act in 1999 Lewis was appointed Chairperson of the Competition Tribunal, a position which he held until 2009. He was Chairman of the Steering Group of the International Competition Network.

### **ADV. KEVIN SIFISO MALUNGA**

Adv. Malunga has been Deputy Public Protector of the Republic of South Africa since December 2012. He holds a BA Law from the University of Swaziland. He also acquired an LLB degree from the University of Natal in South Africa and an LLM in International Law from Georgetown University Law Centre in Washington DC.

He is currently a candidate for Doctor of Juridical Science at the University of Wisconsin-Madison Law School in the US.

Adv. Malunga, is a member of several legal professional societies. His most recent contributions include serving as State Law Adviser to the Marikana Judicial Commission of Inquiry. Adv. Malunga also served as a State Law Adviser: Policy Co-ordination and Monitoring at the Department of Justice and Constitutional Development. He has also served in the former and current Chief Justice's office, where he was also an interim Chief of Staff.

### **DR MPIOLO PEARL SITHOLE**

Dr Mpilo Pearl Sithole is a resident **Public Service Commissioner in the Province of KwaZulu-Natal**.

She completed her PhD in Anthropology at University of Cambridge, in England in 2001. As part of her career she has worked as a development practitioner, a researcher and an academic. For several years she taught at the University of KwaZulu-Natal in Anthropology and in Community Development Programmes.

She has undertaken research on theory and practice of social development, including issues of Monitoring and Evaluation of social development and social cohesion. Her writings include a book titled *Unequal Peers: The Politics of Discourse Management in the Social Sciences (2009)*.

### **Ms BONGI MLANGENI**

Ms Bongi Mlangeni is the chief executive officer of the Social Justice Initiative (SJI), a South African advocacy and fundraising non-profit.

Bongi has more than 20-years of experience in media and communications. For 10 years she worked as a journalist for leading media houses and reported on African politics and issues of inequality, poverty, and women's rights. In 2004, she left South Africa and worked for the World Health Organisation and other international organisations while living abroad.

She was the founding deputy director and head of communications at Corruption Watch. She holds a postgraduate diploma in World Politics from the London School of Economics and a Masters in Public Policy from the Wits School of Governance.

### **Ms NAMHLA TENGWA**

Namhla Tengwa is a fourth-year law student at the University of Kwazulu Natal (Howard College) and an executive member of the UKZN USM.

Namhla underwent an Umtapo training course on Democracy, Human Rights, and anti-Corruption in January 2015 and was part of the founding members of the UMTAPO Student Movement (USM).

**PROF DAVID MACHARIA**

Professor Macharia is based at the University of Nairobi, Kenya.

David Macharia has been involved with Umtapo for more than 20 years as facilitator/trainer, curriculum and materials developer, and adviser. He was a founder member of the African Association for Literacy and Adult Education and past president of the International Community Education Association. Prof Macharia has lectured at various universities on the continent and abroad. He has also served as adviser to various Ministries of Education on the African continent.

**This report has been published by UMTAPO Centre in order to keep alive the discourse and follow-up on action around the key issues that have been raised.**

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