

One Friday afternoon last year, 25-year-old Fenny Ndeyapo Ekandjo, an examiner at the Namibian Registrar of Deeds, was hurrying to work along a sidewalk on Windhoek's main street when her cell phone rang. It was the police.

The officer on the line, Detective Phelem Masule, asked Ekandjo to go to the Anti-Corruption Commission (ACC) offices to help them with an investigation. Ekandjo turned back and made her way to the ACC building, her arms drooping with the weight of the groceries she had just bought. She had left her 5-month-old at home.

On the 12th floor of the ACC offices, Detective Masule informed Ekandjo that she was being detained for corruption. At issue: the theft of 83 Namibian dollars (US\$11.61) at Ekandjo's workplace.

Masule told her to wait. Her heart sank, and she wished it was just a nightmare. It wasn't.

Ekandjo was one of the very first people arrested for corruption by the ACC. She spent the weekend in jail. Once released, Ekandjo was forced to give up breastfeeding because the police refused to bring the baby to her cell.

The ACC publicized this case and others like it far and wide. The message was unmistakable: No one was "too big or too small" to be targeted for prosecution by the newly established agency.

The case has evoked strong public response. Many Namibians feel the ACC is busying itself with petty criminals, at the expense of tackling a growing concern about sophisticated corruption.

The ACC was launched at the beginning of 2006. Previous anti-corruption efforts had been half-hearted. President Hifikepunye Pohamba, who came to power amidst reports of massive losses of state funds, proclaimed anti-corruption, good governance and transparency among his main objectives.

Media reports said the Social Security Commission (SSC) had lost N\$30 million (US\$4.2 million) to a company involving the ruling party Swapo's youth leaders, who were allegedly acting with the blessing of former state President Sam Nujoma.

Other media reports of graft quickly emerged: The Offshore Development Corp. (ODC), a state-owned company set up to promote manufacturing, had lost N\$100 million (US\$14 million) in a dubious investment similar to the above-mentioned SSC deal. Government officials from the president's office, the Ministry of Justice, the attorney general and trade unions affiliated with Swapo had received a state-related business to import 500,000 metric tons of motor vehicle fuel per year for three to five years. The contract was estimated to be worth N\$400 million (US\$56 million) per year. The group has been accused of using their position and political influence with the president at that time to win the tender. The ACC thus had its work cut out for it.

The arrest of the young Ekandjo for less than US\$12 has since turned into an embarrassment for the ACC. The standard criticism is that the ACC overzealously pursues the weak, while being slow to investigate those close to the halls of power in Namibia. But Ekandjo's case was not the only blow to the fledgling agency's credibility.

Information leaked to the media in May and June showed that both the ACC director, Paulus Noa, and his deputy erroneously received salaries and bonuses from their previous employers after they started working for the anti-graft agency. They did not return the money. Instead, they are making monthly installment payments six months after the error was detected. Noa is adamant this scandal does not impugn their integrity, because the state allows them to repay the money over a long period.

The furor had hardly subsided when a company then under ACC investigation for a multi-million dollar fuel tender publicly announced that the agency had cleared them of corruption. The ACC declines to say how the investigation was undertaken. It sees no wrong in allowing Namibia Liquid Fuel (NLF), the company being investigated, to announce the outcome. But NLF's principals include the chief administrator in the president's office, the president's chief economic advisor, the advisor to the justice minister and a former trade union leader linked closely to the ruling Swapo party. Though the ACC found that at least one of the officials in the company did not get the required government permission to take part in private business, the agency did not pursue the matter there. Instead, Noa attacked the media for subjecting NLF to criticism because it is run by "black Namibians." Rather, Noa was more annoyed at journalists who, he says, failed to give the ACC proof of political interference. Most publicly available information suggests that NLF was set up after other blacks had gone to the office of the president to introduce the deal to President Nujoma.

The ACC has said nothing about civil servants who, while actively employed in the service of the state, simultaneously run private companies that depend on state contracts for survival, as is the case with NLF.

The dependence of private firms on state largesse is one of the main loopholes for grand corruption in Namibia. Typically, individuals with close links to politicians set up businesses that bid for government contracts. In the NLF case, for example, a government law took 50 percent of the market share of private oil importers, and put it in the hands of a government-owned corporation. That National Petroleum Corp. of Namibia (NAMCOR), in turn put it up for public bidding, with a requirement that the bidders include black Namibians to foster black economic empowerment, commonly known as BEE.

BEE aims to reverse the policies of apartheid, which kept blacks out of the mainstream economic activities. BEE initiatives have been adopted in both Namibia and South Africa. But in Namibia, BEE has come to be associated with a few wealthy blacks who team up with established white businesses. Many times, these shills have become multi-millionaires overnight — without necessarily playing any productive role in managing the companies in which they had just become shareholders.

In the case of NLF, the Namibians remain in their government jobs or other posts. Sasol, a South African oil company run by Afrikaners, the joint partner with the Namibians in NLF, runs all operations and the risk of supplying the fuels to Namibia. But it pays half of the dividends to its black partners, none of whom are involved in any of the operations.

Noa says the ACC could find nothing prosecutable about NLF. “You will find that a person, legally speaking, has done nothing wrong. But while they are morally wrong, legally you cannot take action.”

Therein lies the difficulty facing the ACC in rooting out corruption in Namibia, argues Noa. The country does not have blatant kleptocracy, he says. Instead, a complicated web of loopholes in the law and the cumulative effect of ill-thought-out policy decisions have resulted in a multitude of opportunities for ill-gotten gains. “We have legalized corruption,” says Noa. For its part, the ACC says it will have to compile a report for Parliament and other authorities to close the loopholes.

Civil society leaders, such as the head of Namibia’s Legal Assistance Centre (LAC), believe the ACC as well as the

Ombudsmen have far-reaching powers, which their officials fail to use wisely. “They need to be proactive and not wait for complaints,” says LAC Director Norman Tjombe.

In contrast to the case of Fenny Ndeyapo Ekandjo, none of the major corruption scandals has come close to being resolved. Even in the SSC and ODC cases, where it is known who benefited corruptly from the missing N\$130 million (US\$18.2 million), no prosecutions have yet been forthcoming. The cases are more than three years old already. Namibians involved in the missing N\$100 million (US\$14 million) from the ODC have not even seen their assets forfeited, as was the case with suspects in the same cases in South Africa.

So far, the ACC has given ample ammunition to critics who believed its officials to be “lightweights” unable to take on top politicians or cronies. So low is the opinion of the ACC that even the government-linked trade unions, generally known for rapid support of the ruling party, have expressed skepticism and suggested that a board of commissioners be appointed to supervise the ACC and act as a buffer against outside interference.

Noa is adamant that the agency is on track to minimize corruption and prevent it from being openly practiced on the streets. The ACC continues to arrest people for minor incidents, such as abuse of state cars or small-time bribery, perhaps an indication that this ordinary corruption, so common in many African countries, will not be tolerated in Namibia.

But a sobbing Ekandjo, who says she was fired from her job over the theft of less than US\$12, believes the punishment outweighed her crime.

“I’m not saying what I did was right,” confesses Ekandjo, wiping the tears from her face. “But you find many top people who have done worse but are not pursued like this. It’s just not fair. But what can I do about it?”

Paulus Noa says he will not be deterred by criticism. “People should stop making noise about this so-called ‘small corruption.’ You must accept that grand corruption comes from small corruption.”



