



## INNOVATIONS FOR SUCCESSFUL SOCIETIES

### MANAGING CORRUPTION RISKS: BOTSWANA BUILDS AN ANTI-GRAFT AGENCY, 1994 – 2012

#### SYNOPSIS

In the early 1990s, a string of high-level corruption scandals in Botswana outraged citizens and undercut the country's reputation for good governance and fiscal prudence. In 1994, the government created the Directorate on Corruption and Economic Crime (DCEC), responsible for combating corruption through investigation, prevention, and education. The DCEC won global recognition for its innovative preventive and educational efforts, ranging from preventive units embedded within problem-prone government offices to outreach programs for youth and rural communities. The directorate's investigative record was more varied, however. Even though investigations of petty graft led to convictions, high-profile cases foundered in court. The DCEC had limited responsibility for those legal setbacks, because its role in prosecution was merely advisory, but the rulings bolstered public concerns that Botswana's economic and political elites were above the law. Judicial reforms and capacity-building efforts begun in 2012 raised hopes for future investigative gains.

*Gabriel Kuris drafted this case study based on interviews conducted in Gaborone, Botswana, in March 2013 and in London in August 2013. Case published October 2013.*

#### INTRODUCTION

On a summer night in February 1992, Joseph Letsholo, general manager of the Botswana Housing Corporation (BHC), was speeding down a desert highway toward Gaborone, Botswana's capital, when his car veered off a curve, careened into the bush, rolled over, and killed him. A local police chief discovered the accident and sent officers to investigate. In the car's glove compartment, they found 8,530 pula (US\$3,900) in cash.

"Of course, that triggered an avalanche of questions," recalled Tymon Katlholo, head of the police Criminal Investigation Department,

who oversaw the case. "Why would the chief executive be carrying such large sums of money? . . . There was a lot of speculation. Some people were saying that he was killed. All that was rubbish; this was a pure road accident."

The investigation unraveled a web of graft. In Letsholo's personal safe at BHC headquarters police found stacks of bills totaling 218,000 pula (US\$100,000) whose serial numbers correlated with the cash recovered from the car. A presidential commission of inquiry examined BHC activities and concluded that there was "no option but to find that these unbanked sums were the fruits of corruption." The report

criticized “gross mismanagement and dishonesty” responsible for “the loss of tens of millions of pula” at the BHC. Kickbacks for wasteful construction projects accounted for much of the loss.<sup>1</sup> The trail of evidence that started in Letsholo’s glove compartment led to 12 corruption prosecutions.

The BHC case was only one in a series of major corruption scandals that rocked Botswana in the early 1990s. In April 1991, a presidential commission exposed graft amounting to 27 million pula (US\$13 million) in a national supply contract for primary schools. In December 1991, another presidential commission found that the vice president and two ministers had abused their authority to acquire land designated for community projects on Gaborone’s rapidly developing outskirts. Finally, in late 1993, the National Development Bank, a state-owned business lending fund, teetered on the edge of bankruptcy after costly loan defaults by high-level officials, including the president and several ministers, thereby raising doubts about the bank’s independence.<sup>2</sup>

The resulting public outrage sapped the broad support the ruling Botswana Democratic Party (BDP) had earned. In March 1992, weeks after Letsholo’s accident, high-level government officials visited London to seek advice on ways to counter corruption. Police experts there advised the officials to visit Hong Kong to meet with Graham Stockwell, a longtime English police investigator nearing retirement as deputy commissioner of Hong Kong’s Independent Commission Against Corruption (ICAC). Surprised by visitors from such a distant country, Stockwell gave them a tour of the commission and told them about its path-breaking anti-corruption approach, which combined investigative, preventive, and educational functions.

In early 1993, after Stockwell retired to England, Botswana’s government persuaded him to assess its anti-corruption systems. Stockwell’s

findings called for the establishment of a multifunctional anti-corruption agency like the ICAC. Months later, the government persuaded Stockwell to return to Botswana on a longer-term basis to help draft the legislation necessary to establish such an agency—and, ultimately, to lead it.

## THE CHALLENGE

The corruption scandals of the early 1990s contrasted sharply with Botswana’s international image as a beacon of good governance in a region troubled by economic mismanagement and state coercion.<sup>3</sup> Citizens reported corruption to be infrequent, especially in everyday interactions.<sup>4</sup> Botswana consistently outshone its regional peers in international measures of corruption like Transparency International’s Corruption Perceptions Index and the World’s Bank’s Enterprise Surveys.<sup>5</sup> Nevertheless, as noted by Thapelo Ndlovu, chairman of the Botswana Council of Non-Governmental Organizations (BOCONGO), an umbrella group of nonprofits: “Botswana is relatively better [than other countries in Africa], but that doesn’t mean that we don’t have corruption. That’s a mistake that we always make, and the international community always makes.”

Fueled by lucrative diamond fields found shortly after independence from Britain in 1966, Botswana sustained one of the world’s highest economic growth rates through the late 1990s. As the mainstay of the national economy shifted from cattle to diamonds, Botswana’s strong rule of law and prudent economic stewardship helped it avoid the endemic corruption typically associated with resource dependency.<sup>6</sup> By the mid-2000s, Botswana’s real annual gross domestic product per capita exceeded US\$4,000—or US\$12,000 in purchasing-power-adjusted terms—qualifying the country as “upper middle-income” in the lexicon of the World Bank.<sup>7</sup> Although the population had tripled since independence to roughly 2 million,

Botswana was still one of the world's least densely populated countries.<sup>8</sup>

Botswana had held regular free and fair elections since independence, which helped restrain corruption. Although the BDP maintained a solid hold on parliament, opposition parties operated freely and often won legislative seats and local offices. Legal institutions, based on the British common-law model, were generally respected. Private media channels were fiercely independent and played major roles in revealing the scandals of the early 1990s.

However, other aspects of the country's political institutions obscured accountability and transparency. Growing government revenue prompted an expansion of the scope and scale of the state and created opportunities for rent seeking. Discretion over the disbursement of public funds and the disposition of state land and other resources raised temptations for public officials to profit from their positions. Furthermore, Botswana had one of the world's highest levels of income inequality.<sup>9</sup>

Some scholars argued that the BDP's predominance, coupled with the strength of Botswana's executive, both concentrated power and increased corruption risks.<sup>10</sup> Critics frequently accused the BDP of abusing the advantages of incumbency to marginalize or co-opt opposition leaders.<sup>11</sup> Election monitors criticized the party for abusing its control over state media,<sup>12</sup> and international observers noted an increase in state suppression of independent media in the late 2000s.<sup>13</sup> Without pressure from a competitive political opposition, Botswana lacked transparency measures common among other democracies, such as freedom-of-information laws and whistle-blower protections.<sup>14</sup> "You cannot know the level of corruption if you do not have the transparency mechanisms: laws like access to information [and] declarations of assets by leadership," Ndlovu said.

Botswana's president, chosen by parliament for a fixed five-year term, could be neither impeached nor sued in criminal or civil court, even over private matters.<sup>15</sup> Parliament could remove the president only by dissolving itself through a vote of no confidence and conducting new elections, after which the new parliament would choose a new president.<sup>16</sup> The president enjoyed sole discretion in choosing many high-level officials, including the chief justices of the appellate and supreme courts as well as the vice president, who was next in line if the president left office.<sup>17</sup> (The president appointed other high-court judges based on a short list provided by a judicial commission, with the candidate pool broadened in the late 2000s.)

The president also wielded strong powers over the legislature, with authority to dissolve parliament and to control its budget.<sup>18</sup> "Parliament is weak because it has to depend on the executive, firstly for funding," said Bugalo Maripe, a University of Botswana lecturer of law.

Botswana also suffered from a dearth of civil society groups focused on governance issues.<sup>19</sup> David Sebudubudu, a University of Botswana political scientist, said: "We don't have civil society in a real sense of the phrase. . . . We have small groups but their impact is quite minimal." Ndlovu called Botswana's civil society "underresourced" and too dependent on government grants to function impartially.

Allegations of high-level corruption in Botswana centered on abuse of office, insider trading, and preferential treatment for influential firms in major industries such as livestock and construction.<sup>20</sup> Modise Maphanyane, chair of the Botswana chapter of the Media Institute of Southern Africa, a regional nonprofit that supports media freedom, said, "There is high corruption in tendering, it is believed, and I don't think this is smoke without fire." Ndlovu agreed, calling the problem "tenderpreneurship," by which "certain people

with links to the ruling party win tender after tender.”

Botswana’s political context and corruption environment shaped both the design of the Directorate on Corruption and Economic Crime (DCEC) and the strategies the directorate pursued to combat the systemic problems revealed by the high-level scandals of the early ’90s. During the next two decades, three consecutive DCEC directors would face the challenge of reducing corruption risks through prevention, education, and investigation.

### FRAMING A RESPONSE

Beginning in late 1993, Stockwell worked with a task force of two foreign and two local anti-corruption specialists to draft a presidential memo laying out a blueprint for a new anti-corruption strategy and anti-corruption agency for Botswana that would correct the abuses that had outraged the public.

The task force recommended an agency format modeled on Hong Kong’s ICAC, with investigative, preventive, and educational functions. The directorate differed from the ICAC in several important ways, against Stockwell’s wishes. First, the directorate was put under the president’s office, whereas the ICAC was formally independent. Second, the DCEC’s mandate, like those of many other peer agencies, expanded beyond corruption to include related economic crimes such as fraud and tax evasion. Third, DCEC personnel were subject to public service regulations, while ICAC hired its workers on contract and had more control over human resources. Fourth, the directorate lacked the ICAC’s citizen oversight committees, which Stockwell believed to be a vital mechanism of public accountability. Botswana’s officials did not see the need for such committees, which were rare among peer agencies worldwide.

With presidential approval, Stockwell collaborated with Emmanuel Tetteh, a senior

legislative draftsman in the attorney general’s office, to write the Corruption and Economic Crime Act, which established the DCEC and codified new corruption crimes. The bill passed easily despite unusually vocal intraparty opposition from BDP legislators who contended that the law was draconian and redundant with existing anti-corruption controls.<sup>21</sup> President Quett Masire signed it into law in August 1994.

In the October 1994 general elections, the ruling BDP continued its unbroken winning streak, although its percentage of the vote had declined to a historic low of 67%. The government’s quick passage of the corruption act helped it mollify voters upset about ongoing corruption scandals. But the public had high expectations for the nascent agency.

The DCEC’s capacity to address Botswana’s corruption challenges reflected the strengths and shortcomings of the country’s institutional balance. On one hand, the directorate had substantial resources, strong powers, and the support of trusted justice-sector institutions. On the other hand, the president had a high degree of control over the directorate. In addition, aspects of Botswana’s legal system hampered high-level corruption investigations, such as lack of relevant precedent, a shortage of experienced prosecutors, and the inadmissibility of legal confessions made without a judge present.

The director of the DCEC had strong investigative powers delegable to staffers, including powers to arrest, execute searches and seizures, trace and freeze assets, seize travel documents, and extradite suspects—but not to surveil telecommunications. Under certain circumstances, those actions required a judicial warrant. The DCEC could recommend prosecutions to the Directorate of Public Prosecutions (DPP), which had control over all prosecutions. Sometimes the DPP asked DCEC lawyers for advice or assistance in case prosecution. In its preventive work, the DCEC

had the authority to coordinate government efforts and compel cooperation from other agencies.

The president's level of control over the directorate strayed from international best practices and blunted the directorate's independence. The DCEC initially reported directly to the president but was later moved to the Ministry of Defense, Justice, and Security and funded under the ministry's budget (before being returned to the president's office in 2012). Botswana's president could appoint and remove the DCEC director at will, as was true for similar positions like the ombudsman and the secretary of the Election Commission. The president also had an unchecked right to bar the directorate from accessing premises or documents for reasons of state security. Sebudubudu, the political scientist, said the DCEC's close ties to the presidency created the impression that the directorate was "there not to tackle high-level corruption but just to please international donors and investors that we are doing something."

With Stockwell as its first director, the DCEC began taking shape in mid-1994, while its establishing legislation was still under debate. To make up for an initial shortage of local anti-corruption expertise, Stockwell recruited 14 of the directorate's 66 initial staffers from abroad, including several former colleagues from the ICAC. Fifteen other officers were seconded from other law enforcement authorities, which raised media concerns that the DCEC was simply borrowing old resources rather than developing new ones. Stockwell responded to the criticism by explaining directly to the public the necessity of temporarily bringing in experienced officers until the directorate could stand on its own feet. The experience demonstrated the importance of transparency and public outreach, which Stockwell made a priority during his three-year term. Through frequent public talks in person or

over the radio—a crucial information source in rural areas—Stockwell sought to raise awareness of the DCEC, the dangers of corruption, and the importance of citizen tips in the fight against graft.

When operations began in late 1994, Stockwell focused on institutionalizing the directorate, building its capacity, and adapting policies, procedures, and methods from his experience in Hong Kong. During 1995–96, the directorate opened a report center to collect public corruption tips, conducted training courses for new staff, established an intelligence group to liaise with relevant public and private institutions, opened a branch office in the northern city of Francistown to better cover Botswana's far-flung population, and began construction of a permanent headquarters. The directorate also launched several high-profile investigations, including a case related to road construction that implicated a cabinet minister and a departmental director for bribery; an embezzlement case against a former acting permanent secretary of finance; and abuse-of-office cases concerning state-owned enterprises such as a development fund and the national airline.

Satisfied that the DCEC was running smoothly, Stockwell resigned in April 1997, in line with a "localization" plan that eventually phased out nearly all expatriate staffers by the directorate's 10th anniversary. To replace Stockwell, President Masire appointed Katlholo, who had left the police force to become the DCEC's deputy director in 1994. Katlholo focused on building capacity and confronting corruption across multiple fronts, and he earned public respect for his efforts. Greg Kelebonye, editor of online news portal You Report Live, said: "Katlholo ruffled a lot of feathers. The general perception was that he was fairly independent and stood his ground."

During Katlholo's term, the directorate's staff count doubled to roughly 200. He recruited



staffers with academic backgrounds in law, accounting, and education. “There was a massive recruitment of graduates from the University of Botswana within various disciplines,” Katlholo said, “to cater to all the challenges that emerge when fighting corruption.” The recruits supplemented the directorate’s original core of seconded investigators and helped smooth the directorate’s working relationship with other investigative agencies. Many chose to stay on after their initial terms expired; in 2005, they still composed about a third of the DCEC staff.<sup>22</sup>

With presidential backing and the power to direct anti-corruption reforms government-wide, the DCEC under Katlholo devoted significant effort to prevention and education. “Our emphasis, from the word go, was on awareness and prevention, because if you rely too much on criminal sanctions, then you are treading on very shaky ground,” Katlholo said. “Our approach is to look at the systems, improve service delivery, raise [a public body’s] productivity level, so that you minimize opportunities for corruption.” These analyses of systemic risks began in the form of assessments of existing procedures in each government office. When such assessments failed to produce changes, the DCEC adopted an idea from Kenya and Tanzania: to create internal teams within each government department to promote reforms.

Katlholo also launched educational efforts to broaden awareness of corruption risks, especially in rural areas. “You cannot combat what you cannot see, nor can you combat that which the public does not have the political will to assist,” Katlholo said. By raising awareness of corruption, he hoped “to make corruption a public debate,” increasing the volume of corruption reports the DCEC received and the degree of public pressure on government officials to act transparently and accountably.

Katlholo defended the DCEC’s pursuit of

corruption at all levels. “Corruption is corruption, whether the fish is small or big,” he said. “They belong to the same biological family. . . . The effects are the same.” Even a petty bribe could have significant consequences, Katlholo pointed out, such as a fatal car crash caused by an untested driver who secured a license through graft. Moreover, Katlholo said that the law obligated the DCEC to give all complaints equal consideration, and the DCEC could not selectively focus its investigations on big-fish cases.

Nevertheless, by the mid-2000s the DCEC had fallen into an apparent slump, with no high-profile cases under way. Katlholo argued that during that time, the DCEC was quietly developing investigative capacity and collecting evidence for major investigations: “The momentum was building up.” But critics complained that the directorate appeared timid and overly focused on petty bribery cases.<sup>23</sup>

In 2007, Botswana’s government initiated a series of strategic reevaluations. With support from the European Union, the government hired British anti-corruption consultant Bertrand de Speville, a former head of Hong Kong’s ICAC, to prepare a report on ways to reform the DCEC. De Speville’s report suggested judicial reforms, increased independence, more resources, community outreach, and the establishment of ICAC-style citizen oversight committees.<sup>24</sup>

During the same year, the DCEC adopted a new five-year plan to boost capacity and clear case backlogs. In addition, the directorate increased its engagement with the media and earned positive press attention.<sup>25</sup> President Ian Khama, who took office in 2008 and announced a new priority on anti-corruption efforts, also called on Stockwell—a personal friend—to return to Botswana to assess the DCEC’s operations. Stockwell recommended changes in the directorate’s management, staff training, and investigative operations.

In April 2009, Katlholo stepped down after

12 years as director, saying he felt ready to leave and that his public pension had vested. “I had wanted to go earlier than that, but I delayed going until 2009 because of the new changes that were going on,” he said. However, some journalists were skeptical that he left voluntarily, surmising that President Khama preferred a candidate of his own choosing.<sup>26</sup>

To lead the DCEC, Khama chose Rose Seretse, a former construction technician who had risen through the directorate’s ranks from prevention officer in 1997 to deputy director in 2007. Press reports lauded her record of experience but raised concerns about her objectivity, because she was Khama’s cousin by marriage.<sup>27</sup> Because of that family tie, political scientist Sebudubudu said, “The perception of the director [Seretse] is that she cannot be independent.”

Amid such perceptions of potential bias, Seretse sought to reverse the DCEC’s negative reputation. “One of my goals was to change public perception about the DCEC,” she said. “People had the thinking—especially the citizens of this country—that the DCEC was only interested in going after the small fish and leaving out the big fish.” To boost capacity, Seretse secured funding for additional investigators, raising the staff size to 270. Under her leadership, the directorate improved investigative efforts by establishing sector-specific investigative teams and formalizing staff training.

Like Katlholo, Seretse stressed prevention and education. She said one of her goals was “to close the gap between the DCEC and the ministries in the fight against corruption.” To that end, she established specialized anti-corruption units headed by retired investigators in the government offices that had the most chronic corruption problems. The units conducted preliminary investigations and reported possible wrongdoing to relevant institutional leaders or to police or to DCEC

investigators.

“In the past,” Seretse said, “ministries and the government saw the fight against corruption as the mandate of the DCEC, and they didn’t see themselves in it. But . . . the fight against corruption is for all of us.”

## GETTING DOWN TO WORK

Under the successive leadership of Katlholo and Seretse, the DCEC boosted its preventive and educational efforts, improved its media relations, and increased its capacity to take on higher-level investigations.

### *Reducing public sector corruption risks*

The DCEC’s early preventive efforts focused on assessing existing procedures and systems in each government office. “We had what we called *assignment studies*,” Katlholo said. “We went into the departments, looked at their procedures, and then advised them.” The studies resulted in detailed reports that laid out potential corruption risks and offered reform recommendations.

The DCEC’s first assignment study—of Botswana’s motor vehicle insurance fund in 1995—was conducted at the request of the head of the fund, who wanted to reduce his office’s vulnerability to corruption. Most assignment studies, however, grew out of corruption complaints the DCEC had received, and they were typically linked to investigative efforts.

The DCEC prioritized its efforts based on departments with high corruption risks, such as those dealing with subsidies or construction contracts. For example, the directorate identified problems in the implementation of Botswana’s Financial Assistance Policy, a small-business grant program created in 1982. “That program was abused a great deal,” Katlholo said. “A lot of money was being wasted.” The DCEC recommended the program’s closure, which the government acted on in 2001. Other assignment

studies focused on faulty tendering policies in such areas as construction and building-maintenance contracts, youth projects, and food rations for vulnerable populations.

Not surprisingly, some of the government offices failed to follow up on the DCEC's recommendations. Katlholo said, "When you conduct the study, they'll give all the cooperation, but when it comes to implementing the recommendations, that is when it becomes a little bit challenging." Although the directorate had the legal power to compel compliance, Katlholo was reluctant to antagonize public officials with sanctions. He said he believed that internally driven institutional reforms were more likely to be sustainable.

To address those challenges, the DCEC created corruption prevention committees, which were internal teams within each government department and responsible for implementing reforms. Launched in 2007 in a few departments selected on the basis of persistent corruption risks, committees were eventually established in 29 state institutions, including all 16 ministries.

Each committee had seven or eight members, who took responsibility for formulating and implementing anti-corruption reforms based on the corruption risks they perceived in their institution. "We believe that people who work at that department are better placed to see what is right or wrong [than is] the DCEC, who would be coming as outsiders," explained Seretse, who took a lead role in launching the committees while in her position as deputy for prevention.<sup>28</sup>

The DCEC's preventive staff worked to support the committees. For major government institutions, the DCEC seconded staff to "continuously monitor and support the committees and anti-corruption units," according to Bothale Makgekgenene, DCEC deputy director for policy. "Initially, we used to have challenges of ministries not adequately

implementing the recommendations emanating from [our] audits," said Makgekgenene. The DCEC developed several strategies to encourage compliance without antagonizing institutional leaders. To increase accountability, the directorate required a deputy permanent secretary or an official of similar rank to chair each corruption prevention committee, thereby providing the clout needed to promote reforms. To facilitate monitoring, the DCEC required that committees set timelines for implementation. In addition, the DCEC secured the cooperation of other institutions of accountability by signing memorandums of understanding with the offices of the auditor general and ombudsman in 2010, and with the Competition Authority and Public Procurement and Asset Disposal Board in 2012.

The DCEC monitored progress through periodic site visits and encouraged what Makgekgenene called "healthy competition" by including in its annual reports assessments of each government department's progress toward implementation, along with the proportion of total investigations each department instituted. Negative reports attracted scrutiny from both the office of the president and the media. "No head of an organization would want their ministry to be labeled as the most corrupt ministry," Seretse said.<sup>29</sup>

Starting in 2012, the DCEC became part of a team led by the president's office to assess ministerial anti-corruption efforts. Ministries became required to submit quarterly progress reports. Makgekgenene said high-level political support had made the committees more effective but that the DCEC was still struggling to address the training needs of committee members.

Dealing with the ministries and authorities the DCEC found to be most prone to corruption required an aggressive response that blended preventive and investigative measures. Brainstorming with the president, Seretse came



up with the idea of specialized anti-corruption units headed by retired investigators, and she secured his support and pledge of additional resources. Like the committees, the units were embedded within each institution and conducted risk assessments. The units, however, also had powers to conduct preliminary investigations and report evidence of wrongdoing to relevant institutional leaders, the DCEC, or the police. The DCEC created the first six units in 2011 in the Gaborone City Council and the ministries of local government, health, education, transport, and lands. Three more were added during the next two years.

“The anti-corruption units have made a bigger impact than any other reform we have come up with,” said Makgekgenene, citing their ability to monitor transactions and processes in ministries focused on service delivery. Makgekgenene said the directorate hoped that once the units had achieved sustainable reductions in corruption risks, the units would no longer be necessary and internal integrity officers could take full responsibility for risk management.

#### *Promoting anti-corruption education*

The DCEC’s educational efforts ranged widely but targeted three populations in particular: government functionaries, youth, and rural communities.

The directorate conducted training for government workers through workshops that focused on ministries subject to numerous corruption complaints. When possible, DCEC staffers responded personally to specific training requests from government offices, but Ellah Moepedi, a principal officer on the directorate’s education team, called the requests “overwhelming,” echoing her colleagues’ complaints that demand for anti-corruption education outweighed DCEC capacities. Private sector enterprises and nongovernmental organizations also requested training sessions in

such issues as business ethics and conflict of interest. The DCEC tried to answer these requests when it had resources available.

Beginning in 2010, in cooperation with the education ministry, the DCEC integrated corruption issues into school curricula and offered guidance and counseling. Other school activities included fairs and exhibitions, as well as competitions in public speaking, writing, and art. The directorate supported teachers and students in establishing anti-corruption clubs in secondary schools, which Seretse said was important for “peer-to-peer education.”

The DCEC’s most iconic youth-outreach effort involved a mascot named Rra Boammaruri (the name meant *Mr. Honesty* or *Mr. Integrity*), who taught primary school students good moral values foundational to anti-corruption education. Developed in the late 1990s in collaboration with hired consultants, Rra Boammaruri was a cape-wearing cow, a superhero based on an animal traditionally associated with prosperity and steadfastness in local culture (Figure 1).

Surprising many adults, Rra Boammaruri connected well with young children. When the directorate sent a costumed staffer to primary schools to talk about integrity, the schoolchildren usually received him enthusiastically.<sup>30</sup> “You don’t expect someone to be talking about corruption to seven-year-olds,” said Moepedi. “But the mascot was talking to



Figure 1: Rra Boammaruri

seven-year-olds and pointing out issues of morality, honesty, truth, and fairness, because we believe that children who grow up with these issues will not succumb to corruption later in life.”

In 2012, the DCEC began a review of Rra Boammaruri in order to relaunch the mascot in an updated visual style with a broader appeal, which Makgekgenene hoped would “appeal to young and old, females and males” alike. The mascot’s temporary absence had not gone unnoticed. “Everybody is asking about it!” Moepedi said in 2013, laughing.

Reaching Botswana’s far-flung villages was perhaps the most difficult challenge the DCEC’s education team faced. The DCEC opened branch offices in the northeastern city of Francistown in 1996 and the northwestern city of Maun in 2008 to complement its southerly Gaborone headquarters, with two more branches planned.

To simplify logistics and minimize costs, the DCEC’s outreach team piggybacked on the travel plans of other government agencies such as the youth ministry, electoral commission, and water affairs department. “We collaborate with other ministries to reach outer communities [and share] transport and resources such as outdoor broadcasting vans,” said Makgekgenene. “Whatever time they give, we take the opportunity to talk to the public.”

In rural villages, the DCEC made presentations at meetings of the *kgotla*, a customary community council, sometimes in coordination with parliamentarians on constituent visits. Staffers customized their language and content to reflect local needs. Moepedi said, “We give them scenarios that they might encounter in their local area,” such as abuse of office and theft of public funds. “They always have questions.”

Moepedi said members of the public were eager for DCEC visits, and although not shy in their criticisms of the DCEC’s performance,

they were receptive to the presentations. “The people who benefit from corruption would not want us to know they are against us, so they keep silent,” she said. “The majorities are those who don’t benefit, who want to work with us.” The DCEC also responded to local demands for assistance in setting up community anti-corruption clubs to disseminate information and support citizen activism, although the education team had enough resources to set up only four by early 2013.

#### *Strengthening media relations*

Before 2008, when the DCEC established a public relations department, the editor of the *Botswana Gazette* complained that getting information from the DCEC was as difficult as “milking a bull.”<sup>31</sup> In his 2008 report to the president, Stockwell also lamented the directorate’s neglect of media relations, which he had seen as vital to building public support during his leadership term.

Under Seretse, the DCEC cultivated a more cooperative media relationship, employing four public relations officers by 2012. Mindful of legal limits on discussions of ongoing investigations, the DCEC and the Directorate of Public Prosecutions tried to respond to media inquiries as fully as possible by answering reporters’ inquiries, issuing press releases, and holding occasional press conferences.

Makgekgenene said the directorate and the press had “a working relationship which is healthy.” The media were important sources of intelligence. “We get some of our reports from the media,” she said. “When they do investigative journalism, we think they do a good job, and we take some of these articles as part of our investigations.” The DCEC also maintained a weekly column of corruption prevention tips in the state newspaper.

Media advocate Maphanyane was less sanguine about the relationship, saying of the DCEC, “I don’t think they see media as their

friend.” Although he agreed that the directorate had improved its media relations, especially by holding press conferences, he said he felt the DCEC’s interactions with the press were one-sided. “There’s no proper linkage that I know of,” he said, “with media as [the DCEC’s] partner.”

#### *Raising awareness and soliciting tips*

The DCEC conducted outreach through various media, especially radio, which was popular among rural villagers and urban commuters alike. As the popularity of social media increased in the early 2010s, the DCEC studied the Internet activities of Hong Kong’s ICAC. However, the directorate found such efforts expensive and labor-intensive. In early 2013, Moepedi conceded that her team was still struggling to manage an interactive Web presence.

Public communications led to an influx of corruption tips. “Interactions with the people spur people to seek clarification on certain matters or report other matters,” said Moepedi. “Normally, after a presentation, someone will call you aside and want to report something. Or after the director has been on radio, the call center will be inundated with calls.”

The DCEC received anonymous and sourced corruption complaints through a telephone hotline, by e-mail, and in person. The directorate also culled corruption reports from the media and received tips from other government agencies. From the beginning, the flood of corruption tips strained the DCEC’s response capacity. Katlholo said he believed it was better to have too much rather than too little intelligence. “It was good for us then,” he said. “You needed all that information. And then you could take out the chaff and remain with the grains.”

However, Katlholo described how the DCEC struggled to encourage reports without becoming overwhelmed by the resulting flood of

information. Part of the problem stemmed from public confusion about what distinguished corruption and economic crimes from wrongdoing handled by other authorities. “We were inundated with a lot of cases that really did not relate to corrupt practices,” Katlholo said. “A lot of people could not distinguish between a corrupt decision and a wrong decision” by a public official. Well-meaning citizens conflated corruption issues like bribery that were under DCEC jurisdiction with maladministration issues like government waste that the ombudsman was meant to handle.

Public education efforts, combined with improvements in the directorate’s intelligence capabilities, led to increasingly useful reports. In 2010, the DCEC found 41% of public complaints to be relevant, a step up from the levels of 30 to 33% averaged by the directorate during the previous decade.<sup>32</sup>

Adopting a practice from Hong Kong, the DCEC sorted complaints by using a classification system involving eight characteristics, such as whether the complaint was anonymous or traceable and whether or not it concerned a criminal matter. A board of six high-level DCEC leaders, chaired by the director, scrutinized potential cases to determine whether an actionable complaint was lawfully pursuable by the DCEC. If not, the directorate might refer the case to other authorities, furnish advice to the complainant, or add it to an already opened case or to the directorate’s intelligence database.

In late 2011, the DCEC created an assessment section to better triage corruption reports. Assessment officers analyzed incoming complaints and supporting evidence to produce reports for panels of experienced officers—a move that enabled the directorate to respond to most complaints within four weeks. The assessment section was a game changer for directorate investigators, according to Donald McKenzie, an Australian prosecutor who

brought decades of anti-corruption experience to the DCEC when he became deputy director of investigations in 2011. “If an anti-corruption agency [is] so busy running around trying to do everything, it won’t be able to do anything effectively,” he said. “So, we steered more resources, both staff and equipment, into assessment, and we put a lot of work into developing processes, a lot of which I drew from my experiences back in Australia.” Better assessment enabled the directorate to halve its caseload from 2011 to 2013. “Although the incoming cases are controllable,” McKenzie said, “we have this substantial backlog of old cases, which is an ongoing problem for us.”

*Boosting the effectiveness of investigations*

As the DCEC’s outreach efforts in the early 2000s engaged more citizens in uncovering wrongdoing, Katlholo noted, expectations escalated for the DCEC to tackle high-level corruption. “We became, as a department, a victim of our own success,” he reflected in 2013. “Because there was a lot of awareness, there was a lot of criticism. . . . What people could see was not the number of cases that we were able to put before the courts, but that there [appeared to be] certain people we could not take to court. The public perception was that you are not fighting corruption until and unless you have nipped somebody high, . . . the so-called big fish. But even then, . . . some will say no, no, this was done for political reasons. So, it’s a no-win situation. That was a big challenge, and I think it remains a challenge even today.”

From the beginning, DCEC leaders saw training as the key to developing the investigative capacity to catch high-level suspects. In 2000, Botswana opened a state-of-the-art police college—together with an International Law Enforcement Academy run jointly with the United States—to provide advanced training in investigative skills and to facilitate regional cooperation. DCEC staffers

frequently made study visits to anti-corruption agencies in Africa, Europe, and Asia, and received training from the Commonwealth and other international bodies. Together with the University of Botswana, the DCEC developed a college-level anti-corruption course. The DCEC also tried to organize its operations through a computerized case management system, first introduced in 2000, although it proved slow and unreliable.

Starting in 2007, the directorate announced investigations of several high-level leaders. One case involved a former permanent secretary of local government who had allegedly benefited improperly from public land transfers. Another case concerned fraud charges against a former managing director of Debswana, a joint venture between Botswana and De Beers that was the world’s leading diamond producer. A third case implicated the head of the state public-procurement body in the improper awarding of public tenders to firms controlled by his relatives.

Media and the public took notice. The newspaper *Mmegi* wrote in a staff editorial on 14 January 2008: “[T]he DCEC, in its early years, was seen as nothing but a toothless dog, unable and unwilling to pursue the real big criminals. . . . We were among those who had our doubts about the DCEC’s ability and willingness to fight crime. It is our turn to recognize the recent progress made by the DCEC. . . . In the last few weeks, we have seen substantial cases brought to the courts.”<sup>33</sup>

Under Seretse, the directorate’s investigative teams became increasingly specialized. Sections were established to promote and guide core investigative disciplines like computer forensics, financial investigations, and covert operations. Starting in 2011, McKenzie led the creation of sector-specific teams to focus on investigations in corruption-prone fields like construction and transportation. The team hired investigators with relevant

technical experience. “The aim is a more comprehensive investigation response in hot-spot areas,” McKenzie said.

Due in part to those internal improvements, DCEC investigators finally became able to satisfy public demands for big-fish investigations in 2011 and 2012 by recommending prosecution for several high-profile suspects, including three ministers. “That’s the first time this happened in this country,” said Maphanyane.

Most of the charges involved the awarding of public tenders to companies in which the accused officials held undisclosed interests. The most prominent case was that of Minister of Defense, Justice, and Security Ramadeluka Seretse, a superior to Rose Seretse and a relative of both her and the president. The case alleged that the minister failed to properly disclose possible conflicts of interest in awarding equipment tenders worth 1.1 million pula (US\$130,000) to companies of which he and his close relatives were directors.

## OVERCOMING OBSTACLES

Despite the DCEC’s success in bringing charges against those officials, the directorate’s high-level investigations failed to produce convictions. For example, in his 2011 corruption trial, Ramadeluka Seretse was fully acquitted. The DPP unsuccessfully appealed in 2012. All of the other high-profile suspects recommended by the DCEC for prosecution since the mid-2000s were also acquitted, primarily on appeal (with the exception of the Debswana executive, who committed suicide while his case was ongoing). Those acquittals perpetuated the DCEC’s poor public image, even though the directorate lacked responsibility for prosecution.

Most of the acquittals were based on legal technicalities that critics considered so trivial as to indicate the likelihood of political interference, such as the failure of prosecutors to frame charges correctly or to meet certain court

deadlines. Following common-law precedent, such errors resulted in acquittals, allowing the officials in question to continue their terms in office. (Of the three ministers charged, only the defense minister had resigned before standing trial.)

The acquittals infuriated critics of the government and contributed to the impression that high-level defendants used top-notch legal representation—and, possibly, their political clout—to elude justice. “Not a single case went to court without people hiding behind procedures or constitutional issues, before we actually started the trial,” lamented Katlholo.

Ndlovu of BOCONGO said the series of acquittals “calls into question the integrity of the justice system.” He attributed the impunity of high-level defendants to their access to high-priced lawyers or illicit deal making. “Either the justice system is corrupt, or the issue of class is at play,” he said. “Money can influence justice legally.”

Maphanyane agreed. “They are powerful; they get the best defense they can muster,” he said. “The technicalities tend to overshadow the crime that was done.”

The high-level acquittals dealt a blow to public perceptions of the government’s commitment to fighting corruption. Maphanyane said of the president, “He is not asking [the investigated ministers] to resign. If he’s really tough on corruption, why is he still allowing them to sit in their current position, if they have blemishes on their names?” Political scientist Sebudubudu also blamed top-level complacency, saying, “I think the will to prosecute high-level corruption is not there.”

The acquittals put the DCEC on the defensive. Journalist Kelebonye said, “For a long time, journalists and opposition politicians have said the DCEC is a toothless bulldog.” He blamed the acquittals on failures by the DCEC and state prosecutors rather than by the courts. “The general perception is that the DCEC and



the DPP [Directorate of Public Prosecutions] had not done a thorough job. The perception remains that only the small fish go to jail.”

Seretse said that although the courtroom losses had disappointed the DCEC, they were ultimately not the DCEC’s responsibility, because they had been caused by technical errors rather than investigative failures by the directorate. “If we believe we have done our job and done it effectively, we don’t spend sleepless nights about cases that have gone to court,” she said. “As far as providing the evidence, we’ve done our part.”

The bulk of the blame fell on the DPP. “Obviously now, the perception by the public is that this is a weak institution,” said law lecturer Maripe. Such high-profile failures by the DPP added to complaints that the institution prosecuted its cases too slowly.

Leonard Sechele, director of public prosecutions, said his office suffered from resource constraints and lack of capacity, especially because prosecutors would leave for higher-paying positions in the private sector. “If wishes were horses, we’d have all our lawyers—particularly those dealing with corruption—trained in a particular manner, so that they are able to deal with the challenges of those cases,” Sechele said. He stressed that the DPP’s capacity problems were due to resource constraints rather than legal gaps: “The current legal powers are sufficient. All we need is more resources.”

Sechele also disagreed with criticisms that the DPP dragged its feet on corruption prosecutions. “The DPP does not function alone,” he said. “We need the courts; we work on the diaries of the courts. . . . If the courts are not ready to try cases, then the DPP cannot proceed to trial.” He added that corruption cases were complex and that “the more complicated a case is, the more time it takes to prepare.” He also said defense attorneys sometimes were responsible for delaying cases by

making themselves unavailable for trial, by raising unnecessary objections, and by taking up preliminary matters on appeal.

McKenzie noted several aspects of Botswana’s legal system that hindered corruption suppression. Prolonged court proceedings jeopardized the availability and reliability of witnesses. To be admissible as evidence, an accused person’s confession had to be made before a judge. The law made it difficult for authorities to offer legal enticements such as leniency in sentencing to cooperating witnesses, which McKenzie called “a major part of your armory” in corruption cases—particularly for breaking up networks of systemic corruption.

McKenzie also noted that the scarcity of corruption cases reaching senior courts meant there was little relevant domestic jurisprudence to guide the DCEC and the DPP in building cases strong enough to meet a consistently applied burden of proof in criminal trials. The complexity of corruption crimes and legislation made such guidance crucial.

Judicial reforms that began in mid-2012 had the potential to address public disillusionment with both the courts and the DPP. Following in the footsteps of other countries such as the Philippines and Uganda, the chief justice of Botswana’s High Court created a specialized court to deal exclusively with corruption cases. Sechele lauded the development as “a way of reducing the backlog as well as the turnaround times.” The court’s establishment required no legal changes; under Botswana’s existing criminal code, it could serve as a court of appeal—after corruption cases had been tried at the magisterial level.

The DPP quickly followed by developing a specialized prosecution team to handle corruption cases. As of early 2013, the team had 10 prosecutors headed by an assistant director, who picked the rest of the team members. The team soon found itself buried under a hefty case backlog. Sechele said, “We realized the team is

overwhelmed, and we are trying to find ways to assist the team.”

McKenzie said that although the reforms were too recent to have measurable impact by 2013, the specialized judicial and prosecutorial bodies would “substantially enhance the prosecution and the adjudication of corruption matters” in Botswana. Besides boosting efficiency, he said, the new court would hasten the development of jurisprudence relevant to corruption cases, thereby shaping future DCEC investigations. And he predicted the corruption prosecution unit would simplify lines of responsibility and accountability between DCEC investigators and DPP prosecutors and would facilitate joint training.

“We’re already negotiating over the structure and format of our prosecution briefs,” McKenzie said. “Whilst there were good relations before [between the DCEC and the DPP], there just wasn’t the structure in place to allow effective ongoing negotiation and interaction.”

Although DCEC leaders expressed pride in the directorate’s investigative record, they said they felt that better training could improve the efficacy of investigations. In 2010, Seretse created a new deputy directorship for training and development, and after early setbacks in filling the position, the DCEC hired New Zealander Amanda Gore in late 2012, with financial assistance from New Zealand.

Gore’s job was to map out the directorate’s strengths and weakness and organize a new development plan. With assistance from Switzerland-based Basel Institute of Governance, Gore worked to develop an internal training framework, including a new investigative manual, an induction course, and regular classes for all investigators in such topics as operational planning and management of complex cases. Gore said she hoped to reorient the DCEC’s training around practical skills, led

by veteran DCEC investigators and, when possible, foreign experts.

## ASSESSING RESULTS

Opinion polls indicated public approval of the DCEC’s anti-corruption efforts overall. An Afrobarometer poll in 2012 found that 62% of residents rated the government’s handling of fighting corruption as “fairly or very well” versus 29%, who rated it “fairly or very badly.”<sup>34</sup> However, those figures were virtually unchanged from Afrobarometer’s findings in 2005 (63% and 32%, respectively).<sup>35</sup> Moreover, those numbers might have merely reflected general approval of overall government performance; the only surveyed areas with public approval ratings for government performance of less than 60% were the economic issues of creating jobs, keeping prices down, and narrowing the income gap.

Data on DCEC investigations show little quantitative evidence of significant change from year to year. From 1994 to 2012, the DCEC generally received 1,500 to 2,000 corruption reports annually (Figure 2). Based on those reports, the directorate launched approximately 500 cases each year and referred most of the rest to other bodies. The public prosecution of cases investigated by the DCEC led to convictions in most cases (Figure 3).

Even those critical of the directorate’s investigative efforts had high praise for the directorate’s preventive and educational efforts. “They’re doing a very good job as far as this is concerned,” said online news editor Kelebonye, who added that public awareness of corruption had surged since the DCEC’s establishment. Political scientist Sebudubudu agreed, saying the DCEC had done a “sterling job” on both corruption prevention and education.

Perceptions of corruption continued to rise in Botswana, perhaps heightened by the series of acquittals of high-profile figures in 2012–13. Afrobarometer’s 2012 survey found that 28% of

respondents believed most or all government officials were involved in corruption and that 55% believed some were, with similar

assessments for the police.<sup>36</sup>

While respondents perceived other officials more positively, perceptions of corruption among all government institutions had climbed since 2002—except for a dip in 2008, possibly explained by

President Khama’s honeymoon period, when he first took office and put new emphasis on anti-corruption efforts (Figure 4). Similarly, the percentage of respondents mentioning

corruption as one of the three most important problems facing the country rose from about 5% of respondents in 2000 and 2008 to 9% in 2012.<sup>37</sup>

However, those figures indicated a relatively low level of public concern despite the DCEC’s efforts to draw attention to the issue.

Katlholo blamed the increase in domestic corruption perceptions on perceived degradation of Botswana’s democratic institutions. “If you

look at our governance indicators, voice and accountability have diminished,” he said. “People now believe that a lot of things are done in secret. Corruption thrives under a cloak of secrecy, [which] promotes impunity.”

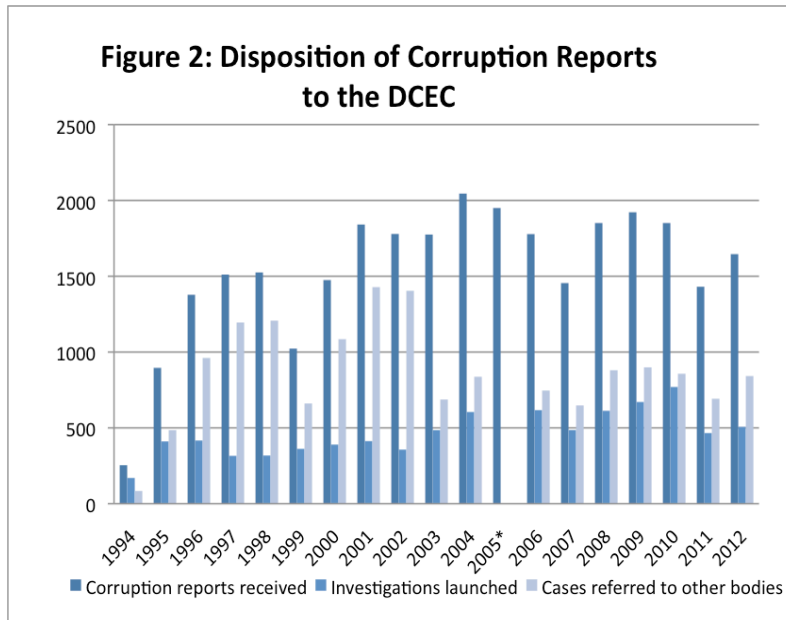
Kelebone also said he believed that

increased perceptions of impunity drove a rise in corruption, drawing a direct line between the acquittals of high-level officials and incentives for petty bribery among police officers. He said,

“There is a frustration that officers go through because they’re getting paid peanuts, and they see the growing discrepancy between rich and poor, and they see big guys getting off scot-free.”

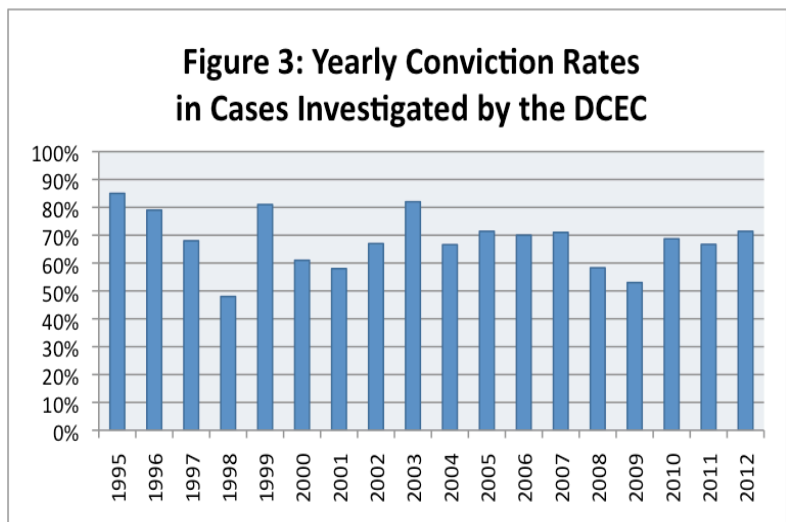
Civil society activists perceived the DCEC as lacking

independence. Ndlovu said of the directorate: “They are expected to be watchdogs, but they



Source: DCEC

\*Case disposition not provided for 2005



Source: DCEC

have turned into lapdogs. . . . If there is a hand behind them, it's easy for them to slow down, or not to do anything, to ignore certain tips. If [an investigation] touches someone in the power the wrong way, they'll just keep quiet or go slow." Speaking of the high-profile cases from 2011 to 2013, he said, "All these cases, we believe, are just the tip of the iceberg. If the DCEC were able to do its job effectively, without pressure from elsewhere, we'd be getting a lot more coming out."

Media advocate Maphanyane agreed. "Those with power, influence, and money are not feeling pressure from the corruption agency," he said. "The DCEC is seen as one of those organs that is government led. . . . We don't think it is independent."

In April 2012, the president moved the DCEC (along with Botswana's intelligence directorate) from the Ministry of Defense, Justice, and Security to the office of the president. Critics viewed the move as a new reason to doubt the directorate's independence. "Some of us are suspicious that it may be a way to limit its capacity to investigate—especially high-profile officers," said law lecturer Maripe.

Maphanyane added, "Those who are cynical can see it as a way of silencing them [the DCEC], bringing them closer." Ndlovu called it a "sign of paranoia" in the office of the president,

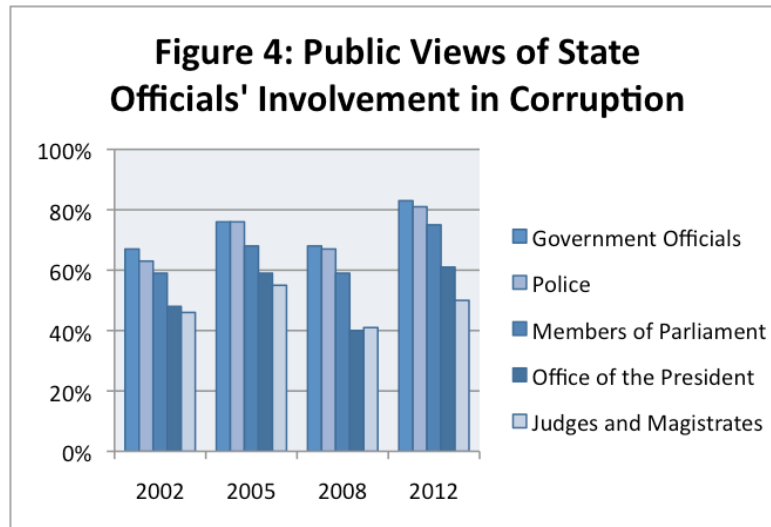
saying, "We can only speculate, but I think it had to do with an internal power play."

Seretse approved of the move, and she and

other directorate leaders strongly denied feeling any political pressure to alter or terminate their investigations. She said the change even facilitated collaboration with other oversight bodies situated in the office of the president, such as the procurement office and state auditor. She dismissed concerns about the

directorate's independence. "We've done all the cases and taken them to court without any interference whatsoever from the office of the president," she said. "The leadership themselves see fighting corruption as their business, so they do all they can to support the anti-corruption agency."

Internationally, Botswana maintained its reputation for low corruption. In early 2013, the Commonwealth Secretariat opened an anti-corruption center in Gaborone to facilitate knowledge sharing and networking among African member states. McKenzie said that Botswana was well suited to host the center because of the DCEC's role as "a good corporate citizen in the anti-corruption world," committed to sharing lessons and promoting best practices with other anti-corruption agencies. "It's the driving agency in its region, even though it's in a small country," he said. "[The DCEC] will set a standard in Africa, and it is the kind of organization that will share its achievements



Source: Afrobarometer.org  
Includes those who perceived "some," "most," or "all" indicated officials were involved in corruption.

and opportunities, and that's why it's a good fit to have the center here."

Seretse agreed that regional collaboration was a DCEC priority, saying she was forging memorandums of understanding with peer agencies across Africa "to have a serious network of anti-corruption agencies within the region and globally."

## REFLECTIONS

To many observers, the DCEC's frustrations and failures in its investigations of high-level corruption underscored the need for more political independence. However, both Tymon Katlholo and his successor as director, Rose Seretse, thought there were advantages to being accountable to the president rather than to parliament. Both were wary of the political pushback confronted by parliament-controlled peer agencies when they investigated politicians. "Reporting to one person is better than reporting to a whole multitude of people," Seretse said. "Once they can connive against you, then you are in trouble."

Seretse attributed the progress made by the DCEC to the political will of Botswana's government. "Some countries just set up anti-corruption agencies as a window-dressing mechanism," she said. "But with the DCEC, there has been a lot of political will, and I think that has really kept us going." She added that such political support had laid the groundwork for legislative changes that would grant the directorate more flexibility in its human resources policies and expand its jurisdiction.<sup>38</sup>

Although Katlholo said he had experienced no political interference, he stressed that the DCEC director needed greater security of

tenure to reinforce the position's independence. "If you don't do that, his tenure in office is just dependent on the goodwill of the head of state," he said. "So long as [security of tenure] is not there, people are going to perceive the DCEC as less independent no matter what you say." He added that the DCEC should be constitutionally mandated in order to guarantee legal protection.

Although the DCEC's high-profile courtroom failures undercut its investigative efforts, the low-profile successes of its preventive and educational efforts demonstrated real gains, aided by political support and substantial commitment of resources. Despite lacking the civil society support and independent reputation that more aggressive peer agencies, such as those in Indonesia and Latvia, leveraged to take on leaders at the highest levels of government, Botswana's DCEC promoted systemic changes that reduced corruption risks across government and elevated corruption issues among the general public, from schoolchildren to village elders.

Considering the strong powers of Botswana's president and the government's deep-rooted public support, the DCEC arguably chose a prudent path in working to quietly promote reform from within the system. In the process, the DCEC grew incrementally stronger in capacity and institutional knowledge and more deeply entrenched as an institution of governance fundamental to Botswana's maturing democracy. However, in early 2013, the question of whether the directorate was capable of tackling the high-level corruption that had prompted its establishment remained unanswered.

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