CONFLICT OF INTEREST IN SOUTH AFRICA: A COMPARATIVE CASE STUDY

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Dedications go to my parents, Mr. & Mrs Kanyane and the Adventist community for their emotional and spiritual support in completing this complex scientific piece of work.
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SELECTED DEFINITION OF TERMS

As in all studies of this type, a number of concepts need operationalizing. Beside, the key concept of conflict of interest, the following three related concepts are clarified for a clear understanding of the main arguments: corruption, fraud, and nepotism.

a) Conflict of Interest

Conflict of interest (see Chapter Three) arises from a situation in which government officials have a private interest sufficient to appear to clash or defeat the objective exercise of his or her official duties (McDonald, 2002). Amongst others, Grupe (2003) relates to practical examples of conflict of interest examined and categorised into: self-dealing, accepting benefits, influence peddling, using the employer's property for personal advantage, using confidential information, obtaining outside employment or moonlighting, and taking advantage in post-employment.

b) Corruption

According to Rosenbloom (1989: 467), corruption is the betrayal of public trust for reasons of private interest. This means that private interest overrides public interest. Cameron and Stone (1995) see corruption as unequivocally to blatant and deliberate dishonesty in the use of public money and goods. In actual fact, a system of public order should always exalt common interest over the personal interest of public officials and the violation thereof (the violation of common interest for personal advantage) is corruption. Hanekom and Thornhill (1983: 79) describe corruption as “behavior which deviates from the normal duties of public role because of private-regarding (family, close private clique), pecuniary or status gain, or violates rules against the exercise of certain types of private regarding influence.” They include: bribery, patronage, misappropriation, cronyism, theft, but also fraud and nepotism, which other scholars classify at the same level as corruption. Bayat and Meyer (1994) include influence peddling, graft in the basket of corruption.

c) Fraud

Fraud in law means the deliberate misrepresentation of facts for the purpose of depriving someone of a valued possession. Although fraud is sometimes a crime in itself, more often, it is an element of crimes such as obtaining money by false pretence or by impersonation. European legal codes and their derivatives often broadly define fraud to include not only intentional misrepresentation of facts, clearly designed to trick another into parting with valuable property, but also misunderstandings arising out of normal business transactions (Robert et al, 1988: 945). According to this encyclopaedic definition, related terms, which go in the basket of fraud, include: embezzlement of funds, bid rigging, and fronting.

d) Nepotism

Nepotism can be defined as undue favour in appointing one’s relatives or friends to office (Hanekom and Thornhill, 1983:83). In a modern society, this phenomenon is
not limited to favouritism in terms of employment and promotion, but of today it includes: awarding tenders and providing insider information.

To this end, it is useful to point out that there is an interwoven relationship between the terms conflict of interest, corruption, nepotism, and fraud. This is illustrated in the form of a “tree” in chapter 3 of the study. The tree illustration show that conflict of interest is the mainstay of all acts of unethical practices identified in the thesis, for all leads to extract personal interest at the expense of public interest.
The thesis departs by studying cases of conflict of interest in South Africa from comparative perspective with specific reference to Limpopo, Mpumalanga and Eastern Cape Provinces. Chapter One is unique and it first took the reader through the historiography of the provinces under study, from 1994 to 2004. Chapter Two may be considered a bird’s view of the study. The answer to the question: To what extent has conflict of interest become a problem in the public services of South Africa with specific reference to three provinces under study, was widely attempted in Chapters Three to Five. The study pursued case-study in handling data. To collect the data, interviews, observations and documentary surveys were used as the primary techniques. To complement the fieldwork, a research trip to Norway, offered a golden opportunity to obtain a comparative view of conflict of interest.

Chapter Three took both a radical and a softer approach to the theoretical understanding of conflict of interest. Among other observations, it must be pointed out that conflict of interest occurs at the fluid interface between personal interests and public duty. The fluidity of the interface makes the separation of the two difficult. Chapter Three also provided a comparative perspective. A look at both the developed or underdeveloped worlds suggests that this phenomenon occurs in both worlds. The chapter, therefore, concludes that conflict of interest is an international phenomenon. Chapter Four can be considered the nucleus of the study because it analyses its findings whilst chapter five interpreted them. Conflict of interest has been discussed on the basis of selected main episodes of which a compressed account is provided. One episode of conflict of interest in this study, namely the episode of company fronting, is one of the highlights of the study in the sense that it dismisses the myth that conflict of interest has some racial roots or explanation.

The study finally provides conclusions and recommendations in chapter six. Among other recommendations, with the history unfolding, it becomes crystal clear that a legal solution is not a panacea to eliminate conflict of interest practices hence a need to integrate the legal imperative with good governance and ethical conduct. From a practical point of view, the study has the potential to sensitise accounting authorities about conflict of interest and, thus, offer ways of preventing it from going out of hand.