

**CONFLICT OF INTEREST IN SOUTH AFRICA: A COMPARATIVE
CASE STUDY**

BY

**MODIMOWABARWA HENDRICK KANYANE
STUDENT NUMBER: 23404435**

**SUBMITTED IN FULFILMENT OF THE REQUIREMENTS FOR THE
DEGREE DOCTOR OF ADMINISTRATION**

**FACULTY OF ECONOMIC AND MANAGEMENT SCIENCES
SCHOOL OF PUBLIC MANAGEMENT AND ADMINISTRATION
UNIVERSITY OF PRETORIA**

**PROFESSOR JERRY O. KUYE
SUPERVISOR**

© 2005

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.

ACKNOWLEDGEMENTS

I met Professor Jerry Kuye, the distinct respected scholar in Public Administration for the first time at the then University of the North in 2001 and later in his School of Public Management and Administration (SPMA) at the University of Pretoria. One of his ambitions is to develop capacities and scholarship in the field of Public Administration of which I owed absolute allegiance, hence the study. Professor Kuye's scholarly supervision made me to complete what I have started. His professorial approach in supervising me to the very end of this piece of work unwaveringly encouraged me to accept and face challenges with tenacity. Actually, the selected topic itself was informed by Professor Kuye's thought, as he is concerned about conflict of interest troubles, which continue to loom the African continent, and it is for this reason that I undertook the responsibility within my area of competence to research and address this concern without fail.

To mention but not the least, acknowledgements also go to the following:

- University of Limpopo for providing financial assistance;
- Mr. Mohlake's editorial contribution is notably recognised together with Professor L Kasanga, though out of the country's willingness to accept linguistic responsibilities for the final editing of this thesis. This includes Professor J Nel who validated the last editorial piece.
- My involvement in a "A Joint South African Norwegian Project on developing a normative framework for effective and efficient social security provisioning: An institutional perspective" (2003-2005) under the respective country project leaders, Professor Marius Olivier (UoJ, South Africa) and Professor Stein Kuhnle (UiB, Norway) has given this research an international posture and an impetus.
- All international and local respondents delineated in Appendix IV are also distinguishably acknowledged for their contribution including that of Mr S.A Ntsoane's. I am also mindful of Mr. JK Tsebe's intuitive support and Ms Lebo Mphahlele's persistent technical library services.

Lastly, I would like to take this opportunity to allude and bring about the fact that this research could not have been possible without my parents, some Seventh Day Adventist Church members, and most importantly, God's intervention in the whole research exercise.

TABLE OF CONTENT

Dedication	i
Acknowledgements	ii
List of figures	vii
List of Tables	vii
List of Charts	viii
List of Diagrams	viii
List of Boxes	viii
List of Loops	viii
List of Matrices	viii
List of appendices	viii-ix
Definitions of Terms	x-xi
Abstract	xii

CHAPTER ONE

HISTORICAL OVERVIEW

1.1	Introduction	1
1.2	Brief historiography of Limpopo Province vs. Mpumalanga and Eastern Cape Provinces	2
1.2.1	Geographical Considerations	2-8
1.2.2	Socio-Economic Considerations	8-13
1.2.3	Technological Considerations	13-15
1.2.4	Politico-Administrative Considerations	15-33
1.3	Conclusion	33-34

CHAPTER TWO

RESEARCH DESIGN AND METHODOLOGY

2.1	Introduction	35-37
2.2	Statement of the Problem	37-41
2.3	Specific Objectives and Significance of the Study	41-43
2.4	Research Question	43
2.5	Research Design and Data Collection Methods	44-46
	2.5.1 Unit of Analysis and Sampling Techniques	46-49
	2.5.2 Methods of Data Collection and Data Collection Techniques	49
	2.5.2.1 Data Collection Methods	49-52
	2.5.2.2 Triangulation and Data Collection Techniques	52-61
2.6	Data Analysis Methods	61-69
2.7	Data Interpretation Method	69-70
2.8	Scope and Limitation of the Study	71-72
2.9	Outline of the Study	73-75
2.10	Conclusion	76

CHAPTER THREE

CONFLICT OF INTEREST IN THE PUBLIC SERVICE

3.1	Introduction	77-78
3.2	Conflict of Interest and Corruption	78-89
3.3	The Relevance of Multi-disciplinary Socio-Philosophical and Psychological Conventional Conflict (of interest) Theories to Public Administration Discipline	89-99

3.4	Selected Ethical Conventional Theorists within Public Administration	
	Inter-discipline	99-107
3.5	International and National Dynamics of Conflict of Interest in Public Administration	107-121
3.6	Causes and Ramifications of Conflict of Interest	121-129
3.7	Country-to-Country Attempts to Resolve Public versus Private Interests Conflict	129-130
	3.7.1 Comprehensive Legal Framework	130-145
	3.7.2 Governance	145-158
	3.7.3 Change in Human Conduct (Shaping Sound Ethical Leadership)	158-168
3.8	Conclusion	169-172

CHAPTER FOUR

ANALYTICAL PERSPECTIVE OF SELECTED CASE STUDIES OF CONFLICT OF INTEREST IN THE PUBLIC SERVICE

4.1	Introduction	173-174
4.2	Selected Case Studies of Limpopo Provincial Government in Comparison to Mpumalanga and Eastern Cape Provinces	174
	4.2.1 Episode One: Transformation, Restructuring and Governance Process	174-193
	4.2.2 Episode Two: Government Vehicle Fleet and Accessories	193-200
	4.2.3 Episode Three: Three Solid Cases of Conflict Interest in the Department of Education	200-222

4.2.4	Episode Four: The Implementation of Hospital Information System (HIS) in the Limpopo Province, Department of Health and Welfare, for R116 million	222-229
4.2.5	Episode Five: Fronting of X Construction (CK 2001/003773/23) African Shareholder vis-à-vis White Counterpart Shareholder	230-237
4.2.6	Reflections of Mpumalanga and Eastern Cape Provincial Governments Case Studies	238
4.3.1	Brief Case Study of Mpumalanga Provincial Government	238-240
4.3.2	Brief Case Study of Eastern Cape Provincial Government	240-246
4.4	Conclusion	246-250

CHAPTER FIVE

INTERPRETATION OF SELECTED CASE STUDIES OF CONFLICT OF INTEREST IN THE PUBLIC SERVICE

5.1	Introduction	251-252
5.2	Cause and Effect of Critical Issues in Public Administration (Governance, Ethics and Accountability and Performance and Risk Management) for Consideration vis-à-vis Conflict of Interest	253
5.2.1	Governance	253-255
5.2.2	Ethics and Accountability	256-262
5.2.3	Performance and Risk Management	263-268
5.3	Conclusion	268-269

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction	270-274
6.2 Conclusions	274-293
6.3 Specific Recommendations	293-299
BIBLIOGRAPHY	300-319
APPENDICES	320-343

LIST OF FIGURES

Figure 2.1	The Central Function of a Research Design	45
Figure 4.1	Schematic Representation of Department of Environmental Affairs and Tourism before July 1996	179
Figure 4.2	Schematic Representation of Department Agriculture before July 1996	180
Figure 6.1	Corporate Governance Framework extracted from PriceWaterHouseCoopers PowerPoint Presentation on Corporate Governance, 2005	290

LIST OF TABLES

Table 1.1	Statistics (South Africa Year Book, 1999)	8
Table 2.1	Modified Research Strategies	62
Table 2.2	Extended Research strategy	63
Table 3.4	Role Conflict	105
Table 4.1	Trip Structure	195-196
Table 4.2	Fuel Reconciliation	196-197
Table 4.3	Operating Costs per Months	197-198
Table 4.4	Short Listing Schedule	202
Table 4.5	Interview Scores	203
Table 4.6	Business Membership	231

LIST OF CHARTS

Diagram 4.1	Transformation and Conflict of Interest Continuum	191
Diagram 5.2	Supply Chain Management vis-à-vis Conflict of Interest	264

LIST OF BOXES

Box 3.1	Conflict of Interest, Corruption & Fraud Box	85
----------------	--	----

LIST OF LOOPS

Loop 3.1	Selected Interdisciplinary and Multi-disciplinary Social Sciences-Public Administration	91
Loop 6.1	Comprehensive Integrated Model (Triangular Loop)	289

LIST OF MATRICES

Matrix 4.1	Problem Analysis of Eastern Cape Province	245
------------	---	-----

LIST OF APPENDICES

Appendix I	Work Operational Plan 2002-2004	320
Appendix II	Requisition for Documentation Cover Letter	321
Appendix III	Requisition of Prescribed Documents: 2003	322-323
Appendix IV	Unstructured Interview Schedule	325
Appendix V	Unstructured Interview Randomly Sampled Question	326
Appendix VI	Memo to the Head of Department: Sec/Investigation	327-328
Appendix VII	X Construction	329
Appendix VIII	Limpopo Province Government Portfolio Structure as of 9/9/2002	330-334

Appendix IX

Limpopo Provincial Government-Selected

Ten Year Schematic Report: 1994, March 2003

335-343

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.

ABSTRACT

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.