



ZIMBABWE ANTI-CORRUPTION COMMISSION

"Refuse, Resist and Report Corruption"

SUNDAY MAIL ARTICLES

Corruption in Management of COVID-19 Donations Faces Severe Punishment

By Commissioner John Makamure

The Zimbabwe Anti-Corruption Commission chairperson Justice Loice Matanda-Moyo recently issued a statement calling on those conferred with the mandate to manage COVID-19 donations to exercise a high degree of transparency and accountability or face severe punishment for any corrupt practices.

Part of the statement read: "The Commission is aware that the Ministry of Health and Child Care has received donations of money, medical equipment and medication donated by individuals, the Business Community, Non-Governmental Organisations, International Organisations and the Donor Community on behalf of the Government of Zimbabwe. In the past, there have been incidences of failure by the relevant authorities to account for donations of similar calamities. The Commission therefore implores the responsible individuals in the Ministry of Health and Child Care, from the Accounting Officer, those in charge of hospitals, clinics and pharmacies to put in place systems that ensure transparency, accountability and fair distribution of all the said donations".

She went further to say "the Commission would like to warn individuals from embarking on any corrupt and fraudulent activities. Those found on the wrong side of the law will be dealt with accordingly".

Indeed these are not empty threats by the ZACC boss. She issued this statement against the background of highly publicised incidences in the past where donated items to address a public emergency have been looted by greedy and corrupt elements within society. Cyclone Idai donations is a case in point.

The ZACC has a constitutional mandate to combat and prevent such malpractices. Section 255 of the Constitution outlines the functions of the Commission as follows:

- to investigate and expose cases of corruption in the private and public sectors;
- to combat corruption, theft, misappropriation, abuse of power and other improper conduct in the public and private sectors;

- to receive complaints from the public, and to take such actions on the complaints as it deems appropriate;
- to refer corruption matters to the National Prosecuting Authority for prosecution;
- to direct the Commissioner General of Police to investigate cases of corruption and report to the Commission on the findings of such investigation;
- to promote honesty, financial discipline and transparency in the private and public sectors;
- to require assistance from members of the Police Service and other investigative agencies of the State; and
- to make recommendations to Government and other persons on measures to enhance integrity and accountability, and prevent improper conduct in the private and public sectors

Ensuring proper management of public and donated resources in furtherance of a national cause is no doubt fully in line with those constitutional functions. The Commission will not sit idly and allow the resources to be plundered at a time when the United Nations has already declared Coronavirus the worst crisis since World War 2. Zimbabwe is already experiencing other huge economic challenges and cannot therefore afford wastage and theft of the few available resources (that have largely been diverted from other pressing needs) to fight the Coronavirus pandemic.

The Commission would like to remind those in charge of the resources that first and foremost the laws of the country must be fully complied with in the management of public and donated resources earmarked for the COVID-19 response.

The Constitution, the supreme law of the land, has numerous provisions to promote transparency and accountability in the management of public resources. For example Chapter 9 outlines basic values and principles governing public administration. Some of these include a high standard of professional ethics; efficient, transparent and economical use of resources. Section 298 outlines principles of public financial management. They include transparency and accountability in financial matters; prudent, economical and effective use of public funds; and responsibility in financial management.

Another important statute is Statutory Instrument 144 of 2019 Public Finance Management (Treasury Instructions), in particular sections 114 and 115. Section 114 provides for all gifts or donations in the form of cash to be paid into the Consolidated Revenue Fund or relevant public fund set up for that purpose. All gifts or donations in the form of assets will form part of public property and shall be treated and accounted for through the Public Finance Management System as such. In circumstances where there is no clarity on the purpose for which a gift or donation shall be applied, Treasury shall provide guidance. Accounting Officers are required to maintain a register of all gifts and donations offered or accepted during

the year. It is the responsibility of Accounting Officers to ensure that any conditions restricting the use of donations are complied with.

Section 115 deals with reporting and audit of gifts and donations. It provides for all gifts, donations or sponsorships received during the course of the financial year to be disclosed as a note to the financial statements of the Ministry. The records relating to gifts and donations should be made available for audit by internal audit, Auditor-General, and private audit firms that may be engaged by donors. Internal Audit shall audit the gifts and donations registers at least once a year.

We have in place the public procurement law which must not be violated in the process of expediting procurement to address the extra-ordinary situation. The Commission's view is that those suppliers who have acted irregularly before or under investigation for other offences must not be engaged by the Procurement Regulatory Authority of Zimbabwe.

Once again, the ZACC will descend heavily on such greedy individuals in the public and private sectors bent on illegally enriching themselves at the expense of the general citizenry. The mandate offences of bribery, use of false documents, concealing a transaction to one's principal, conflict of interest, money laundering, embezzlement and abuse of power as a public officer will be thoroughly investigated and dockets swiftly compiled for submission to the National Prosecuting Authority for prosecution.

Zimbabwe has in place adequate statutes to punish the offenders. For example the Public Finance Management Act outlines in Chapter 9 what constitutes financial misconduct by public officials. Notwithstanding any other enactment, financial misconduct is a ground for the dismissal of, or other disciplinary sanction prescribed under section 87 of the Act against an accounting officer or public official.

Section 91 (1) provides that an accounting officer shall be guilty of an offence and liable upon conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment, if that accounting officer wilfully or in a grossly negligent way fails to comply with section 10 or a requirement of Part IV of the Act. These provisions speak about the role and functions of accounting officers and preparation and reporting of financial statements, respectively.

Section 91 (5) provides that any person who, under examination by an internal or external auditor in terms of Part VIII of the Act, makes any statement which he or she knows to be false or does not have reasonable grounds to believe to be true, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

The Commission urges the members of the public to report cases of corruption in the management and distribution of the COVID-19 donations on the following platforms reports@zacc.co.zw, infor@zacc.co.zw, twitter @ZACCOnline and the Zimbabwe Anti-Corruption Commission face book page. The Commission toll free lines are 08004367/08010101.

The Commission would also like to call upon Parliament to fully exercise its oversight of State revenues and expenditure role as provided for in section 299 of the Constitution. This provision says "Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of Government at every level, including statutory bodies, Government-controlled entities, provincial and metropolitan councils and local authorities in order to ensure all revenue is accounted for; all expenditure has been properly incurred; and any limits and conditions on appropriations have been observed".

The Parliamentary Portfolio Committees are empowered by the Public Finance Management Act to receive monthly and quarterly financial reports and any other reports relating to management of public funds. We therefore expect that when the situation normalises and Parliament returns to work, the reports on the usage of COVID-19 resources will be submitted to the relevant portfolio committees in a timely manner for scrutiny.

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