



OFFICE OF THE CONTRACTOR-GENERAL

SPEECH BY THE
CONTRACTOR-GENERAL
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“Corruption and its Threat to Value Creation in Jamaica”

“Creating Value through Vision, Human Capital and Innovation”

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“Corruption and its Threat to Value Creation in Jamaica”

Madame Chair, Members of the Platform Party, Members of the Conference Coordinating Team, Students of UTECH and other institutions, conference sponsors, representatives of the private sector, specially invited Guests, may I say a very Good Morning to you all.

I am extremely delighted and privileged to be here with you today and to have been provided with the opportunity to speak to you on this most important occasion.

Indeed, I should perhaps confess to you that since having been appointed Contractor General, just about three and one-half years ago, I have received numerous invitations to speak at public engagements, but this is only the second one that I have been able to accept.

The first was at my alma mater, Campion College, and the second is, of course, today at what I regard to be the predecessor to UTECH, the College of Arts, Science and Technology, which was also my alma mater.

In the circumstances, you have, therefore, truly honoured me by asking me to be your Key-Note Speaker and I must say to you that I am indeed humbled by your gracious overtures.

As I look out at the audience today, and see so many young persons, I’m reminded of a time when, not so long ago, I, myself, was a student.

Many of you are currently on the verge of completing under-graduate programmes and, for that, you must be congratulated.

After undertaking a rigorous and challenging period of advanced studies, each of you is now poised at the cusp of embarking upon a potentially great career at a significant point in time of global history.

I am sure that most of you are seized with the possibilities of this moment in your lives. And it is well that you should be, because you will, perhaps sooner than you realize, be at the forefront of confronting the significant challenges which face our country in what is undoubtedly a rapidly changing and unsettling world.

The challenges which we face in Jamaica today are multi-dimensional. In some respects they are somewhat unique, while in others they are becoming increasingly complex in their nature and scope. They cannot be unraveled by any single individual, group or institution – whether it be political or otherwise.

These challenges will require the support and buy-in of every Jamaican in an overarching vision of development and value creation which we must all ensure is assiduously prosecuted and sustained in every sector of our society.

The theme of today's conference presents the intriguing proposition that the amalgam of Vision, Human Capital and Innovation will yield Value.

The inherent suggestion of this thesis, I trust, is that the Value that is created from this process can be translated in very real ways across the business enterprise, organizations, communities, and even across an entire nation, to lead to national sustainable development and economic growth.

From this and other perspectives, your conference today will, therefore, be very critical as a touchstone for a robust and, hopefully, effective national conversation on Value Creation.

But while your conference, I am sure, will provide an important departure point for an on-going series of initiatives to broaden this discussion of Value Creation, I must, however, caution you that you should avoid any suggestion which seeks to regard Value Creation as simply the gestation of substantial wealth to be enjoyed by a narrow category of stakeholders, namely the business enterprise, the employer, the employee, the customer and the shareholder.

As you branch off into your respective Seminars this morning, you must challenge yourselves to explore the proposition which postulates that in the public, as well as in the private sphere, sound social and ethical values, together with strong governance and regulatory structures, and responsible and effective leadership, combined with accountability and transparency – particularly in matters of public affairs, are all equally significant ideals which must be aggressively and relentlessly pursued if we are truly to create and sustain real Value on a national basis.

And it is line with this very proposition that I would like to direct your focus this morning to place the spotlight upon corruption and the evils which it portends for Value Creation and Value sustainability in the national context.

CORRUPTION – WHAT IT IS – WHAT ARE ITS COSTS – AND IN WHAT ENVIRONMENTS DOES IT THRIVE?

First, let us examine what is corruption, what are the costs of corruption and what are the environments in which corruption will thrive.

WHAT IS CORRUPTION?

Corruption is universally defined as the misuse of entrusted power for private gain.

While the concept is typically viewed as a public sector phenomenon, corruption, however, knows no bounds for it is very much a creature of the private sector as it is of the public sector.

In its broadest terms, it is, therefore, characterized as the abuse of power or authority – whether it be economic, political or administrative – which leads to personal or group benefits at the expense and legal rights of the individual, a specific community or the society as a whole.

Jamaica’s Corruption Prevention Act, which was enacted in May 2001, outlines at least 14 broad circumstances in which the criminal offence of corruption, in the public office context, will arise.

One of the main offences which is prescribed is that a public servant commits an act of corruption if, in the performance of his public functions, he does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or for any other person.

Another defined offence, under the Act, which may come as a surprise to most of you, is that where there is a significant increase in the assets of a public servant, which cannot be reasonably explained, the significant increase shall be deemed to be an illicit enrichment and that public servant shall be deemed to have committed an act of corruption.

And, of course, as we all know, a public servant commits an act of corruption if he solicits or accepts, any illicit money or other benefit, for himself, or for another person, for doing any act or omitting to do any act in the performance of his public functions.

WHAT IS CORRUPTION IN PRACTICAL TERMS AND HOW DOES IT TYPICALLY PRESENT ITSELF?

But what is corruption in practical terms, you might ask? How does it typically present itself?

“Understanding the multifaceted dimension of corruption is essential, in order to identify workable ways of dealing with it. Corruption comes in many guises. Bribery, extortion, fraud, trafficking, embezzlement, nepotism and cronyism – are but a few different manifestations of it.”*

“Even the most straight-forward acts of bribery need not always involve the exchange of money. Other gifts or advantages, such as membership of an exclusive club, or promises of scholarships for children, have been used as “sweeteners” to clinch deals.”*

“Whatever form it takes, corruption is always a two-way transaction. It requires a supply side (the briber) and a demand side (the one who receives the bribe). That is why measures must be designed to hit both sides of the corruption equation.”*

“Another aspect of corruption is that it can occur in many different sectors of the economy. A commonly cited and morally reprehensible form is when government officials abuse public trust by accepting bribes from private businesses.”*

“There are different degrees of corruption too. Some would distinguish between “petty” corruption and “grand” corruption.”*

“The former usually involves small sums paid to low level officials to “grease the wheels” or to cut through bureaucratic red tape.”*

“The headline making cases of large multinational companies paying millions of dollars to government leaders or politicians, to obtain lucrative business contracts, are examples of corruption on a grander scale.”*

“This distinction should not imply that some forms of corruption are worse than others.”*

“Indeed, petty corruption, which can interfere with the delivery of basic education and healthcare programmes, can have very serious consequences, even to the extent of causing many more years of grinding poverty for the world’s economically disadvantaged.”*

“When corruption permeates a country’s political and economic institutions, it is no longer a matter of a few dishonest individuals, but rather institutional, systemic corruption.”*

“It is a phenomenon which thrives where institutions are weak or non-existent. And it is strongly related to poor governance.”*

“Systemic corruption happens most where adequate legislative controls are lacking, where there is no independent judiciary or oversight, and where independent professional media and civil society agencies are absent.”*

“Reforms aimed at providing greater transparency and accountability of public institutions and government operations are urgently needed to redress such corruption.”*

THE COSTS OF CORRUPTION

Let us now briefly examine what are some of the costs that are exacted by corruption.

The estimated global costs of corruption, in actual dollar terms, are staggering.

According to ongoing research which was then being conducted by the World Bank Institute in 2004, more than \$1 Trillion (US\$1,000 Billion) was found to have been paid in bribes each year globally.

The \$1 Trillion figure, which was calculated using 2001-02 macro economic data, was compared with an estimated size of the world economy at that time of just over US\$30 Trillion, and did not include embezzlement of public funds or the theft of public assets.

Many studies of the costs of corruption, in individual cases, have also been undertaken. They paint a disturbing picture of state resources lost, squandered, stolen or devoted to sub-optimal uses.

Transparency International, for example, estimates that former Indonesian leader, Suharto, embezzled anywhere between \$15-35 Billion from his country, while Ferdinand Marcos in the Philippines, Mobutu in Zaire and Abacha in Nigeria may have embezzled up to \$5 Billion each.

In a July 1998 Asian Development Bank publication, the following examples of individual cases of corruption were also highlighted:

1. \$30 Billion in aid for Africa ended up in private foreign bank accounts. This amount was then twice the annual gross domestic product (GDP) of Ghana, Kenya, and Uganda combined.
2. When customs officials in one Latin American country were allowed to receive a percentage of what they collected, there was a 60% increase in customs revenues within 1 year.
3. An internal report of an Asian Government found that over a ten year period, state assets had fallen by more than \$50 Billion, primarily because corrupt officials had deliberately undervalued the assets and divested them to international investors in return for kick-backs.

My hope, therefore, Ladies and Gentlemen, is that every one of you will now begin to grasp the enormous costs that ordinary citizens pay, with their tax dollars, when they stand idly by and allow corrupt politicians and public officials to literally steal their money.

But the bad news is that, it is illusory to believe that the costs of corruption are limited to cash costs, such as the examples that we have just seen.

According to the same ADB report, the indirect costs of corruption can often significantly dwarf its direct costs.

“Corruption, for example, erodes public confidence in political institutions and leads to contempt for the rule of law. It distorts the allocation of resources and undermines competition in the market place”.+

“It has a devastating effect on investment, growth and development and, above all, it exacts an inordinately high price on the poor by denying them access to vital basic services” such as housing, health-care, education, water, roads and electricity.+

IN WHAT TYPES OF ENVIRONMENTS DOES CORRUPTION THRIVE?

I will now pose and answer the following question:

In what kinds of environments will corruption thrive?

Corruption will almost, invariably, thrive in any or all of the following circumstances.

Please listen **very** carefully.

1. where institutional checks and balances on power are missing;
2. where good governance and regulatory structures exist on paper only or do not exist;
3. where governmental decision-making remains obscure;
4. where the rule of law is not fully enforced or respected;
5. when politicians and public servants are not held accountable for their actions;
6. where civil society is thin on the ground;
7. where the media is not independent;
8. where there are no independent anti-corruption institutions;
9. where anti-corruption institutions are inadequately resourced, are ineffective, are capable of being influenced or controlled by the political directorate, or are led by men and women who fail to understand what is the true import of their mandate;
10. when citizens become indifferent, lose courage, become fearful or fail to speak out –despite the clear evils which they see.

THE PERCEPTION OF CORRUPTION IN JAMAICA AND THE JAMAICAN ANTI-CORRUPTION INSTITUTIONAL FRAMEWORK

I will now briefly address the perception of corruption in Jamaica and examine, in outline, some of the key components of Jamaica’s anti-corruption institutional framework.

By all accounts, corruption is one of the substantial threats which we face, as a People and as a Country, in Jamaica. It is, without doubt, one of the biggest enemies of Value Creation at all levels of our society.

Indeed, the perception is that corruption is a vice which cuts across all types of Jamaican institutions and organizations, in both the private and public sectors.

Transparency International, the Global Anti-Corruption Watchdog, which ranks countries in terms of the degree to which corruption is perceived to exist among public officials

and politicians, has basically indicated that the perception is that corruption is indeed on the rise in our fair island.

In its 2008 annual Corruption Perception Index (CPI) and rankings, TI scored Jamaica at 3.1 out of a possible 10 and ranked the country 96th in a list of 180 countries.

Only Guyana, at 126, and Haiti, at 177, were ranked worse in the Caribbean region in 2008.

In 2007, Jamaica was scored at a 3.3 CPI and ranked 84 out of 179 countries. In the preceding year, 2006, Jamaica's CPI was rated at 3.7 and the country was ranked 61 out of a total 163 countries.

It is also instructive to note that a July 2008, local Don Anderson Poll found that "too much corruption" was the second most significant problem in Jamaica, next to crime and violence.

Given the discourse which we have just had on what corruption is and the enormity of the costs that it exacts from a country and its people, these perceptions are, at the very least, disturbing.

What might puzzle most of you, however, is that Jamaica has, on paper, one of the most robust anti-corruption architectures of any national state that is now in existence in the western hemisphere.

The regime, which comprises an extensive institutional and legal framework for fighting corruption, and inhibiting the unjust enrichment of public officials, embraces a significant body of common law, statutory and constitutional law provisions. They include, for example, the following:

- (1) **The Parliament (Integrity of Members) Act (1973)** – which provides for the establishment of an Integrity Commission to investigate the assets, liabilities and income of Parliamentarians to determine, among other things, if they are enjoying any unexplained income which could be attributable to corruption.
- (2) **The Contractor General Act (1983)** – which provides for the establishment of an independent Commission of Parliament, to monitor and to investigate the award and implementation of Government contracts, and the issue of Government licences, with a view to ensuring that contracts are awarded, and licences are issued, impartially and on merit and in circumstances which do not involve impropriety or irregularity.
- (3) **The Contractor General Act (1999)** – which provides for the establishment of an independent National Contracts Commission (NCC) to evaluate and to register government contractors and to endorse all recommendations for the award of Government contracts which are \$10 Million and over in value.

- (4) **The Finance Administration and Audit Act (1959)** – which imposes responsibilities upon the Financial Secretary, the Auditor General and the Accounting and Accountable Officers of Public Bodies, to secure public funds from irregular, improper and illegal expenditure.
- (5) **The Representation of the Peoples Act (1944)** – which seeks to prohibit corrupt and illegal practices in the conduct of political elections.
- (6) **The Constitution of Jamaica (Sections 40 and 41)** – which requires Members of Parliament to secure a Parliamentary exemption in respect of any interest which they have in a Government contract, failing which their seats are liable to be declared vacant.
- (7) **The Constitution of Jamaica (Sections 94 to 96)** – which makes provision for the establishment of an Office of the Director of Public Prosecutions, who is vested with the independent authority to commence and to terminate criminal prosecution proceedings at his or her own discretion.
- (8) **The Access to Information Act (2002)** – which seeks to prohibit corruption in Government by facilitating access to certain Government documents, thereby ensuring transparency and accountability in Government.
- (9) **The Public Bodies Management and Accountability Act (2001)** – which seeks to ensure minimum standards in the audits and reporting of accounts of certain Public Bodies and to impose upon the Boards of Directors of Statutory Corporations, certain fiduciary and statutory duties of care.
- (10) **The Corruption (Prevention) Act (2001)** – which gives effect to the 1996 Inter-American Convention against Corruption and seeks, among other things, to prohibit and criminalize corruption by Public Servants.

Public Servants, earning \$2 Million or above per annum, are required by this Act to declare, each year, their assets, income and liabilities, together with that of their spouses and children. The Act also provides for several definitions of an “act of corruption”, inclusive of bribery, transnational bribery and “illicit enrichment”.

- (11) **Other Crime Related Anti-Corruption Laws and Institutions** –
 - (a) **The 2007 Proceeds of Crime Act** – which deals with money laundering and makes provision for the forfeiture of assets and the proceeds of certain unlawful activities;
 - (b) **The Anti-Corruption Division of the Jamaica Constabulary Force;**
 - (c) **The Financial Crimes Investigation Unit of the Ministry of Finance.**

It is also instructive to note that Jamaica is a party to the **OAS Inter-American Convention against Corruption** and a signatory to the **United Nations Convention against Corruption**.

So, when the foregoing is fully absorbed, the inescapable conclusion with which we are faced is that despite the clear and avowed signals of Jamaica's commitment to fight corruption, the perception which exists in the minds of the Global Anti-Corruption community, and even Jamaicans themselves, is that we are a corrupt country.

What, then, are some of the reasons for this perception?

We have already reviewed the most common types of environments in which corruption thrives globally. It might, therefore, be useful for you to examine them and see if you can arrive at your own considered view as to why the referenced perceptions persist in the eyes of TI and Jamaicans, and then determine what, if anything, you are prepared to do about it.

You may also wish to consider some of the challenges which are perceived by some members of our society as presenting obstacles to the realization of full returns upon the investment that the Jamaican tax-payer has already made in the country's anti-corruption institutional framework.

They include the following:

- (1) A perceived tendency, on the part of some of our leaders, to do what is popular or expedient, rather than to do what is in the best interest of Jamaica.
- (2) A lack of adequate funding and resources to effectively operationalize our Nation's anti-corruption institutions.
- (3) A perceived systemic culture of the acceptance of corrupt practices by the general populace;
- (4) A perception that there are anti-corruption and other laws that apply to some Jamaicans but not to others.
- (5) Politicians, public officials, private individuals, institutions and organizations with a vested interest in maintaining the status quo.
- (6) A lack of a cohesive approach to tackling corruption.
- (7) The need to strengthen Jamaica's anti-corruption laws by adding tougher penalties and addressing gaps in the existing legislative framework.

- (8) The need to aggressively enforce and prosecute the anti-corruption laws that are on the statute books, without fear or without favour, and irrespective of color or creed or social, political and economic standing.
- (9) The lack of courage to call a spade a spade.

I would hasten to add, however, that despite the foregoing, there have been a number of promising developments in recent times which should auger well for our Nation's fight to remove the scourge of corruption from its midst.

One which readily comes to mind is the USAID sponsored UWI-Centre for Leadership and Governance, National Integrity Action Forum (NIAF), which was launched on January 29, 2009.

This new civic initiative has highlighted corruption as an area of exceptional national importance and priority action.

The NIAF, much to its credit, has secured the participation and cooperation of many eminent and respected media commentators as well as the full array of local anti-corruption institutions and organizations.

Clearly, positive developments such as these, point to the fact that collaborative partnerships are the path forward for success in creating and enhancing Value in our society.

CONCLUSION

Ladies and Gentlemen, I will now come to the closing remarks of my presentation to you. First, I must again commend you on the thematic focus of your Conference.

On many levels, its words are more freighted with meaning for the destiny of Jamaica and our vision of creating Value in our society, than they may appear from a cursory reading.

Jamaica is currently engaged in a struggle to define "Value Creation" and to sustain "Value Creation" as a national project.

A function of Value Creation is defining and pursuing priorities in a strategic manner. It also means making an assessment of our environment to determine the nature of the various threats which we face, so that we can root them out before they can undermine or shut down our collective efforts.

In embarking upon this task, it is, therefore, important, to recognize that the threat of corruption will continue to persist, and that any gains that we have achieved will continue to prove transitory and, indeed, illusory, unless we follow through as a Nation with concrete actions that will allow us to build upon our current successes.

Aggressively tackling the monster of corruption is no easy task. Opposition is fierce and the obstacles are many.

As was stated in the words of a wise man: **“Vision without action is a dream. Action without vision is simply passing the time. Action with Vision is making a positive difference.”**

It behooves us, therefore, as Jamaicans, to all place our hands on the levers of leadership and trigger the mechanisms of Value Creation, not only for the betterment of ourselves, or for the betterment of our organizations’ interests but, ultimately, for the betterment of that larger business enterprise which is called Jamaica, Land we Love.

Ladies and Gentlemen, I am grateful to you for listening. Thank you.

**Mr. Enery Quiñones, Former Head, Anti-Corruption Unit, Organization for Economic Cooperation and Development (OECD)
+ ADB Report – July 1998*